is $20,000. In my bill this is increased to $22,000 annually. I think it should be confined to that figure until such time as Congress concludes a study on executive pay.

I sincerely recommend that my colleagues make a very careful study of the bill that I introduced.

The Bracero's Viewpoint

EXTENSION OF REMARKS
OF
HON. BURT L. TALCOTT
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, August 5, 1963

Mr. TALCOTT. Mr. Speaker, in some quarters the bracero farm labor program has been denounced as slave labor and described as harmful to the Mexican workers and their families. The Copley News Service recently featured an article from Mexico City which answers the congressional debate which was loaded with antislavery purple prose when Public Law 78 extension was defeated.

Two hundred braceros gathered in front of the Novedades newspaper office in Mexico City. Their spokesmen talked to the editors. Here is the gist of their comments:

> While people in Washington and Mexico City denounce braceroism as slave labor, nobody has asked our opinion. We could tell them it is hard work, but we could cite a thousand cases of harder work at one-tenth the pay right here.
>
> Some have denounced us as unpatriotic for going abroad to work. But the plain answer is we would gladly stay home and work for one-third of what we earn in the United States if we could just find work. What shall we work at? There is unemployment in the fields and even more in the cities. If our bracero contracts are not defended we will be forced to migrate illegally and seek work under much worse conditions.

Now, some Mexican officials might prefer to be handed millions of American dollars so that they could administer the distribution thereof to their petty officers and local agents and take the credit for such largesse. Some of our own bureaucratic governmental officials, too, would prefer that our largesse be funneled through their agencies. I suppose this is a frailty of human nature. But we need not succumb to it.

The U.S. agricultural industry can sponsor the most effective, most beneficial, and most appreciated aid program yet devised. It provides aid in valuable technical agriculture knowledge and in direct wages for services performed.

We should not tolerate illegal migration as suggested, but prevention will be difficult and embarrassing to both the United States and Mexico because the respective needs on both sides of the border are so great.

The bracero program is an effective, desired, decent solution to a difficult economic and diplomatic problem.

West Paterson, N.J.: A 50th Anniversary Salute

EXTENSION OF REMARKS
OF
HON. CHARLES S. JOELSON
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Monday, August 5, 1963

Mr. JOELSON. Mr. Speaker, 14 communities make up the Eighth District of New Jersey which I have the honor to represent in this body. One of these, West Paterson, is now observing the golden jubilee of its establishment.

The assembly of a dozen dedicated citizens in November 1912 led to the incorporation of the Borough of West Paterson by the New Jersey Legislature on March 25, 1941. Ratification by the voters of West Paterson followed on May 26 of the same year.

Garret Mountain Reservation, an expanse of 450 acres, is located in this municipality of 8,000 inhabitants. The borough is nearly 3 square miles in area at a latitude of north 40 degrees 53 minutes and longitude of west 74 degrees 10 minutes.

The borough has adjusted to the increasing tempo of the 20th century, and has thriving modern industrial plants in addition to its many dwellings. The homes in West Paterson, although not luxurious, are proud symbols of the American economic system.

West Paterson is a typical American town which takes great satisfaction in its institutions. It is grateful for its churchs, its schools, and its volunteer fire department.

Mr. Speaker, our beloved Nation can only be as strong as the thousands of municipalities of which it is composed. West Paterson is one of these sources of national strength and growth. We salute it on its 50th birthday and wish it many more years of progress in a free and peaceful United States.

Federal Statistical Directory Provides Ready Reference to Executive Branch

EXTENSION OF REMARKS
OF
HON. THOMAS B. CURTIS
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Monday, August 5, 1963

Mr. CURTIS. Mr. Speaker, several weeks ago the 19th edition of the Federal Statistical Directory was published by the Office of Statistical Standards, Bureau of the Budget. According to its foreword:

> The Federal Statistical Directory is designed to serve as a guide to facilitate communication with offices concerned with particular statistical functions. It lists, by organizational units within each agency, the names, office addresses, and telephone numbers of professional, technical, and administrative personnel associated with statistical and related activities of agencies of the executive branch of the Federal Government.

Mr. Speaker, I want to recommend this directory as a document of considerable value for congressional offices. It contains vital information and is most useful for all research projects.

In an exchange of letters with the Joint Committee on Printing, I requested that each Congressman's and Senator's office receive a copy, and it is my understanding that these have been distributed.

SENATE

TUESDAY, AUGUST 6, 1963

The Senate met at 12 o'clock meridian, and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father, God, turning to Thee, we would write at the start of every day's record, "In the beginning God," for more and more we solemnly realize that every national issue is, at its heart, spiritual.

A fear-haunted world has watched with wistful hope as in a faraway capital, with its background of splendor and terror, a step has been taken back from the brink of mutual destruction. Thou knowest that in the memorable hour which marked the signature of nations to a document which carries the deepest concern of the continents and isles of the sea, mixed with the ink which our free Republic has contributed to the signing of the solemn compact is the fervent hope and prayer that no betrayals will ever wipe from the darkened sky the rainbow which now arches the heavens. As in the days to come, in the process of advice and consent, here in this Chamber is weighed the possible gain and the risk, may this body, seeking naught but the truth and the safeguarding of the dignity of freedom in all the earth, be the instrument of Thy will for preserving our birthright and for the healing of the nations.

Lead kindly light amid the encircling gloom.

In the Redeemer's name we ask it. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Friday, August 2, 1963, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on August 5, 1963, the President

had approved and signed the following acts:

S. 489. An act to amend the act of March 5, 1938, establishing a small claims and conciliation branch in the municipal court for the District of Columbia;

S. 490. An act to amend the act of July 2, 1940, as amended, relating to the recording of liens on motor vehicles and trailers registered in the District of Columbia, so as to eliminate the requirement that an alphabetical file on such liens be maintained; and

S. 1036. An act to amend the inland and western rivers rules concerning anchor lights and fog signals required in special anchorage areas, and for other purposes.

REPORT ON LEND-LEASE OPERATIONS—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 114)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am transmitting herewith the 44th Report to Congress on Lend-Lease Operations. This report covers the calendar year 1962.

This report is submitted in accordance with the provisions of section 5(b) of the Lend-Lease Act of March 11, 1941.

JOHN F. KENNEDY.

THE WHITE HOUSE, *August 6, 1963.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 130. An act to change the name of Fort Randall Reservoir in the State of South Dakota to Lake Francis Case;

S. 131. An act to change the name of the Big Bend Reservoir in the State of South Dakota to Lake Sharpe;

S. 850. An act to change the name of the Bruces Eddy Dam and Reservoir in the State of Idaho to the Dworshak Dam and Reservoir; and

S. 1652. An act to amend the National Cultural Center Act to extend the termination date contained therein, and to enlarge the Board of Trustees.

The message also announced that the House had passed the following bills of the Senate, severally with an amendment, in which it requested the concurrence of the Senate:

S. 874. An act to authorize the construction and equipping of buildings required in connection with the operations of the Bureau of the Mint;

S. 1194. An act to remove the percentage limitations on retirement of enlisted men of the Coast Guard, and for other purposes; and

S. 1388. An act to add certain lands to the Cache National Forest, Utah.

The message further announced that the House had passed the bill (S. 1032) to exclude cargo which is lumber from certain tariff filing requirements under the Shipping Act, 1916, with amendments, in which it requested the concurrence of the Senate.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Pursuant to the order of the Senate of August 2, 1963,

Mr. CANNON, from the Committee on Armed Services, reported favorably, with an amendment, on August 5, 1963, the bill (H.R. 5555) to amend title 37, United States Code, to increase the rates of basic pay for members of the uniformed services, and for other purposes, and submitted a report (No. 387) thereon, which was printed.

LIMITATION OF STATEMENTS DURING MORNING HOUR

On request of Mr. MANSFIELD, and by unanimous consent, statements during the morning hour were ordered limited to 3 minutes.

COMMITTEE MEETING DURING SENATE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the permanent Subcommittee on Investigations of the Government Operations Committee was authorized to meet during the session of the Senate today.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of executive business, to consider the nominations on the Executive Calendar.

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

EXECUTIVE MESSAGES REFERRED

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nomination of Richard R. Conley to be postmaster at Rome City, Ind., which nominating messages were referred to the Committee on Armed Services.

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

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. JOHNSTON (for Mr. EASTLAND), from the Committee on the Judiciary:

John H. Phillips, of Mississippi, to be U.S. marshal for the northern district of Mississippi.

EXECUTIVE REPORTS OF COMMITTEE ON ARMED SERVICES

Mr. INOUYE. Mr. President, from the Committee on Armed Services, I report favorably the nomination of 86 flag and general officers in the Army, Navy, and Air Force, and ask that these names be printed on the Executive Calendar.

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

The nominations placed on the Executive Calendar are as follows:

Capt. Fred G. Bennett, U.S. Navy, to be Director of Budget and Reports in the Department of the Navy;

Edward E. Grimm, and sundry other officers, for promotion in the U.S. Navy;

Vice Adm. Ulysses S. G. Sharp, Jr., U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of admiral while so serving;

Adm. John H. Sides, U.S. Navy, to be placed on the retired list in the grade of admiral;

Maj. Gen. William Jonas Ely, U.S. Army, to be assigned to a position of importance and responsibility designated by the President, for appointment to the grade of lieutenant general while so serving;

Rear Adm. Robert J. Stroh, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving;

Rear Adm. John S. McCain, Jr., U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving;

Vice Adm. William F. Raborn, Jr., U.S. Navy, to be placed on the retired list in the grade of vice admiral;

Maj. Gen. William Winston Lapsley, Army of the United States (brigadier general, U.S. Army), and sundry other officers, for appointment in the Regular Army of the United States;

Brig. Gen. John W. White, Regular Air Force, and sundry other officers, for temporary appointment in the U.S. Air Force; and

Rear Adm. Glynn R. Donaho, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving.

Mr. INOUYE. Mr. President, in addition, I report favorably 6,896 appointments and promotions in the Navy and Marine Corps, and 978 appointments in the Air Force, all in the grade of captain and below. Since these names have already been printed in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk, for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

Franklin A. Hart, Jr., and sundry other officers, for permanent appointment in the Marine Corps;

Charles C. McClement, and sundry other persons, for appointment in the U.S. Navy;

William H. Abel, and sundry other officers, for temporary promotion in the U.S. Navy; and

Francis J. Bartos, and sundry other persons, for appointment in the Regular Air Force.

The PRESIDENT pro tempore. If there be no further reports of committees, the nominations on the Executive Calendar will be stated.

DEPARTMENT OF JUSTICE

The Chief Clerk read the nomination of Bruce R. Thompson, of Nevada, to be U.S. district judge for the district of Nevada.

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

FARM CREDIT ADMINISTRATION

The Chief Clerk proceeded to read sundry nominations in the Farm Credit Administration.

Mr. MANSFIELD. Mr. President, I move that these nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

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

The PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

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

EXECUTIVE COMMUNICATIONS, ETC.

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

AMENDMENT OF TITLE 18, UNITED STATES CODE, RELATING TO RESTRICTIONS IN MILITARY AREAS AND ZONES

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 18, United States Code, with respect to restrictions in military areas and zones (with an accompanying paper); to the Committee on Armed Services.

REGULATION OF ARCHEOLOGICAL EXPLORATION IN CANAL ZONE

A letter from the Governor, Canal Zone Government, Balboa Heights, Canal Zone, transmitting a draft of proposed legislation to regulate archeological exploration in the Canal Zone (with accompanying papers); to the Committee on Armed Services.

REPORT ON RECONSTRUCTION FINANCE CORPORATION LIQUIDATION FUND

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a report on the progress made in liquidating the assets of the former Reconstruction Finance Corporation for the quarterly period ended June 30, 1963 (with an accompanying report); to the Committee on Banking and Currency.

AMENDMENT OF FEDERAL POWER ACT, RELATING TO INTERCONNECTION OF ELECTRIC FACILITIES

A letter from the Chairman, Federal Power Commission, Washington, D.C., transmitting a draft of proposed legislation to amend section 202(b) of the Federal Power Act with respect to the interconnection of electric facilities (with an accompanying paper); to the Committee on Commerce.

REPORT ON BACKLOG OF PENDING APPLICATIONS AND HEARING CASES IN FEDERAL COMMUNICATIONS COMMISSION

A letter from the Chairman, Federal Communications Commission, Washington, D.C., transmitting, pursuant to law, a report on backlog of pending applications and hearing cases in that Commisison, as of June 30, 1963 (with an accompanying report); to the Committee on Commerce.

REPORT ON IMPAIRMENT OF COMBAT READINESS OF A COMBAT UNIT AT FORT GEORGE G. MEADE, MD., RESULTING FROM LACK OF REPAIR PARTS

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the impairment of combat readiness of a Department of the Army Combat Unit at Fort George G. Meade, Md., resulting from lack of repair parts, dated July 1963 (with an accompanying report); to the Committee on Government Operations.

REPORT ON INCREASED PRICE FOR CERTAIN BALLISTICS COMPUTERS UNDER DEPARTMENT OF THE AIR FORCE CONTRACT

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the increased price for ballistics computers resulting from excessive estimated material costs under Department of the Air Force contract AF 09(603)-34097 with Servomechanisms, Inc., El Segundo, Calif., dated July 1963 (with an accompanying report); to the Committee on Government Operations.

REPORT ON INADEQUATE ADMINISTRATION OF MILITARY BUDGET SUPPORT FUNDS PROVIDED TO IRAN UNDER THE FOREIGN ASSISTANCE PROGRAM

A letter from the Comptroller General, transmitting, pursuant to law, a secret report on the inadequate administration of military budget support funds provided to Iran under the Foreign Assistance Program, dated July 1963 (with an accompanying report); to the Committee on Government Operations.

DISPOSITION OF CERTAIN FUNDS IN FAVOR OF SNAKE OR PAIUTE INDIANS

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the disposition of funds arising from a judgment in favor of the Snake or Paiute Indians of the former Malheur Reservation in Oregon (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON CLAIM OF PAWNEE INDIAN TRIBE OF OKLAHOMA *v.* THE UNITED STATES OF AMERICA

A letter from the Chief Commissioner, Indian Claims Commission, Washington, D.C., reporting, pursuant to law, that the claim of the *Pawnee Indian Tribe of Oklahoma* v. *The United States of America, Defendant,* docket No. 10, had been finally concluded (with accompanying papers); to the Committee on Interior and Insular Aaffirs.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien, and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

REPORT ON PETITIONS TO CLASSIFY STATUS OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, petitions to classify the status of certain aliens for first preference under the quota (with accompanying papers); to the Committee on the Judiciary.

DISPOSITION OF EXECUTIVE PAPERS

A letter from the Archivist of the United States, transmitting, pursuant to law, a list of papers and documents on the files of several departments and agencies of the Government which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking to their disposition (with accompanying papers); to a Joint Select Committee on the Disposition of Papers in the Executive Departments.

The PRESIDENT pro tempore appointed Mr. JOHNSTON and Mr. CARLSON members of the committee on the part of the Senate.

PETITION

The PRESIDENT pro tempore laid before the Senate a resolution adopted by the City Council of University City, Mo., relating to civil rights; which was referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RUSSELL, from the Committee on Armed Services, with amendments:

H.R. 6996. An act to repeal section 262 of the Armed Forces Reserve Act, as amended, and to amend the Universal Military Training and Service Act, as amended, to revise and consolidate authority for deferment from, and exemption from liability for induction for, training and service for certain Reserve membership and participation, and to provide a special enlistment program, and for other purposes (Rept. No. 388).

By Mr. GOLDWATER, from the Committee on Armed Services, without amendment:

H.R. 2192. An act authorizing the readmittance of Walter Sowa, Jr., to the U.S. Naval Academy (Rept. No. 389).

DISPOSAL OF CERTAIN WATERFOWL FEATHERS AND DOWN FROM NATIONAL STOCKPILE—REPORT OF A COMMITTEE—(S. REPT. NO. 390)

Mr. SYMINGTON, from the Committee on Armed Services, reported an original bill (S. 1994) to authorize the disposal, without regard to the prescribed 6-month waiting period, of certain waterfowl feathers and down from the national stockpile, and submitted a report (No. 390) thereon; which bill was read twice by its title and placed on the calendar.

EXTENSION OF MEXICAN FARM LABOR PROGRAM—REPORT OF A COMMITTEE (S. REPT. NO. 391)

Mr. HOLLAND. Mr. President, from the Committee on Agriculture and Forestry, I report favorably, with an amendment, the bill (S. 1703) to amend title V of the Agricultural Act of 1949, as amended, and for other purposes, and I submit a report thereon, together with the minority views of Senators PROXMIRE, NEUBERGER, MCGOVERN, and MCCARTHY, members of the committee. I ask unanimous consent that the report, together with the minority views, be printed.

The PRESIDENT pro tempore. The report will be received and the bill be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Florida.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CARLSON:

S. 1987. A bill to provide for the issuance of a special postage stamp in commemoration of the 50th anniversary of the Kiwanis International Civic Organization; to the Committee on Post Office and Civil Service.

By Mr. BARTLETT:

S. 1988. A bill to prohibit fishing in the territorial waters of the United States and in certain other areas by persons other than nationals or inhabitants of the United States; to the Committee on Commerce.

(See the remarks of Mr. BARTLETT when he introduced the above bill, which appear under a separate heading.)

By Mr. COOPER:

S. 1989. A bill for the relief of Walter T. Collins; to the Committee on Armed Services.

S. 1990. A bill for the relief of Edward J. Maurus; to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. FONG):

S. 1991. A bill to charter by act of Congress the National Tropical Botanical Garden; to the Committee on the Judiciary.

By Mr. WILLIAMS of Delaware (for himself and Mr. BOGGS):

S. 1992. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the donation of surplus personal property to States for use in the operation of prison systems and penal institutions; to the Committee on Government Operations.

By Mr. BEALL:

S. 1993. A bill to provide for the issuance of a special postage stamp in commemoration of the 150th anniversary of the composition of the Star Spangled Banner; to the Committee on Post Office and Civil Service.

By Mr. SYMINGTON:

S. 1994. A bill to authorize the disposal, without regard to the prescribed 6-month waiting period, of certain waterfowl feathers and down from the national stockpile; placed on the calendar.

(See reference to the above bill when reported by Mr. SYMINGTON, which appears under the heading "Reports of Committees.")

By Mr. BEALL:

S. 1995. A bill for the relief of Bing Bock; to the Committee on the Judiciary.

By Mr. SCOTT (for himself, Mr. MUNDT, Mr. RANDOLPH, Mr. BENNETT, Mr. LAUSCHE, Mr. CURTIS, Mr. CANNON, Mr. SIMPSON, and Mr. TOWER):

S. 1996. A bill to prohibit the use of products originating in any country or area dominated or controlled by communism in Federal or federally assisted projects for the construction, alteration, or repair of any building, public work, or facility; to the Committee on Public Works.

S. 1997. A bill to prohibit the use of products originating in any country or area dominated or controlled by communism in any housing construction which is assisted under programs administered by the Housing and Home Finance Agency, its constituent agencies, or the Veterans' Administration; to the Committee on Banking and Currency.

(See the remarks of Mr. SCOTT when he introduced the above bills, which appear under a separate heading.)

By Mr. KENNEDY:

S. 1998. A bill for the relief of Mohsen Chafizadeh; to the Committee on the Judiciary.

By Mr. EDMONDSON:

S. 1999. A bill for the relief of Francisco Navarro-Paz; to the Committee on the Judiciary.

By Mr. McNAMARA:

S. 2000. A bill to provide assistance in the development of new or improved programs to help older persons through grants to the States for community planning and services and for training, through research, development, or training project grants, and to establish within the Department of Health, Education, and Welfare an operating agency to be designated as the "Administration of Aging"; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. McNAMARA when he introduced the above bill, which appear under a separate heading.)

By Mr. McCARTHY:

S. 2001. A bill to amend section 212A(4) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

By Mr. ERVIN:

S. 2002. A bill to insure to military personnel certain basic constitutional rights by prohibiting command influence in courts-martial cases and in certain nonjudicial proceedings, and for other purposes;

S. 2003. A bill to protect the constitutional rights of military personnel by insuring their right to be represented by qualified counsel in certain cases, and for other purposes;

S. 2004. A bill to protect the constitutional rights of military personnel by increasing the period within which such personnel may petition for a new trial by court-martial, and for other purposes;

S. 2005. A bill to afford military personnel due process in court-martial cases involving minor offenses, to insure the right of counsel in such cases, and for other purposes;

S. 2006. A bill to provide additional constitutional protection in certain cases to members of the Armed Forces, and for other purposes;

S. 2007. A bill to broaden the constitutional protection against double jeopardy in the case of military personnel;

S. 2008. A bill to more effectively protect certain constitutional rights accorded military personnel;

S. 2009. A bill to amend chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, so as to provide additional constitutional protection in trials by courts-martial;

S. 2010. A bill to implement the constitutional rights of military personnel by providing appellate review of certain administrative board decisions, and for other purposes;

S. 2011. A bill to insure due process in the case of certain administrative actions involving military personnel;

S. 2012. A bill to amend chapter 47 (Uniform Code of Military Justice) so as to assure the constitutional rights of confrontation and compulsory process by providing for the mandatory appearance of witnesses and the production of evidence before certain boards and officers, and for other purposes; and,

S. 2013. A bill to further insure the fair and independent review of court-martial cases by prohibiting any member of a board of review from rating the effectiveness of another member of a board of review, and for other purposes; to the Committee on Armed Services.

S. 2014. A bill to provide for compliance with constitutional requirements in the trials of persons who are charged with having committed certain offenses while subject to trial by court-martial, who have not been tried for such offenses, and who are no longer subject to trial by court-martial; and

S. 2015. A bill to provide for compliance with constitutional requirements in the trials of persons who, while accompanying the Armed Forces outside the United States, commit certain offenses against the United States; to the Committee on the Judiciary.

S. 2016. A bill to further insure due process in the administration of military justice in the Department of the Navy by establishing a Judge Advocate General's Corps in such department;

S. 2017. A bill to protect the constitutional rights of military personnel by providing an independent forum to review and correct the military records of members and former members of the Armed Forces, and for other purposes;

S. 2018. A bill to further insure to military personnel certain due process protection by providing for military judges to be detailed to all general courts-martial, and for other purposes; and

S. 2019. A bill to provide additional constitutional protection for members of the Armed Forces by establishing Courts of Military Review, and for other purposes; to the Committee on Armed Services.

(See the remarks of Mr. ERVIN when he introduced the above bills, which appear under a separate heading.)

By Mr. WILLIAMS of Delaware:

S. 2020. A bill for the relief of Peter Drossos; to the Committee on the Judiciary.

ACTION, NOT WORDS, NEEDED TO PROTECT OUR FISHERY RESOURCES

Mr. BARTLETT. Mr. President, I introduce, for appropriate reference, a bill to prohibit foreign vessels from fishing in the territorial waters of the United States or from taking fishery resources of the Continental Shelf claimed by the United States, to set up effective procedures for the enforcement of the act, and to provide appropriate penalties for violators.

The introduction of this legislation, Mr. President, stems from a long-standing concern with the increasing encroachment of foreign vessels upon our offshore fishery domain and the obvious impotency of our present Federal laws to deal with trespassers who intentionally or otherwise stray within our territorial waters. But the need for this legislation has been pointed up and dramatized by very recent and very alarming intrusions by Soviets whaling vessels into our territorial seas off Alaska. Just last week, on July 28, two Soviet whaleboats were sighted west of Kodiak off Nakchamik Island. That same day another catcher and a mother ship were seen in the territorial waters off Sutwik Island. Two days later, last Tuesday, four additional whale killer vessels were sighted 1½ miles west of Nakchamik Island. The reports of these sightings come from reliable sources, the Alaska Department of Fish and Game and Kodiak Airways. State Representative Gilbert Jarvela, of Kodiak, has informed me that documentary photographs are available for the July 28 incidents. The Coast Guard and Navy have been informed of the sightings. Let me emphasize, Mr. President, that these vessels were all within our 3-mile territorial sea, some within 1 mile of our shores. It is perhaps also pertinent to note that last week there were some 230 Russian and 50 Japanese vessels fishing in Alaska coastal waters—outside the territorial sea but still in waters which furnish thousands of our fishermen with their means of livelihood and thousands more of our citizens with a vital food supply.

Another flagrant encroachment on our territorial sea occurred early last month, this time involving Japanese vessels. On July 3, the *Toshi Maru*, a Japanese whaler, was sighted operating 1½ miles from Cape Edgecumbe. A week later, on July 10, three Japanese whaling vessels were sighted between Hazy and Coronation Islands, within the territorial sea.

These violations of our territorial waters represent only one of the aspects of a total pattern of foreign interference with American fishing.

Another long-standing problem has centered around our need to protect the fishery resources of our Continental Shelf. We presently claim king crab and Dungeness crab as such a resource. This claim is made explicit in article II of the International Convention on the Law of the Seas, which both the United States and Russia have signed and ratified and which, with the ratification of one more nation, will shortly go into effect. The convention recognizes that a coastal state has sovereign rights in the exploitation of natural resources on the Continental Shelf; these resources include those organisms which "in the harvestable stage, either are immobile, or underneath the seabed, or are unable to move except in constant physical contact with the seabed or subsoil." King crab definitely qualify. Yet the Russians and the Japanese have been engaged in extensive king crab operations on our Continental Shelf in the Bering Sea. And attempts have been made this year for the first time to extend their operations into the Gulf of Alaska. All the claims which we might make and all the declarations which we might make cannot assure the protection of our shelf resources. What is needed is legislation which provides workable procedures and penalties for apprehending and punishing those who violate our claims.

Mr. President, I have repeatedly stressed that the territorial sea and Continental Shelf violations which have plagued Alaskan fishermen and citizens are not isolated phenomena; they seem instead rather typical of situations prevailing, because of the heedless fishing practices of certain nations, in other U.S. fishing areas, and indeed all over the world. Japanese and Russian vessels have been sighted off the coasts of Washington and Oregon, along the Atlantic seaboard, and, most notably, in the Gulf of Mexico. I have been pleased to note that the House Armed Services Committee has recently concerned itself with the military implications of Soviet trawler traffic off Florida, an aspect of the problem which demands close scrutiny. Canada has experienced encroachments similar to our own and has responded by proposing the establishment of a 12-mile exclusive fishery zone measured from straight baselines.

French and British lobster and crab fishermen have had their gear destroyed by Soviet vessels. And early this year, the Irish Navy took the Soviet trawler *Paltus* into custody for violating the 3-mile limit.

The threats represented by the ominous patterns in international fishing give cause for great alarm. And, Mr. President, that alarm is compounded by the realization that our present statutes are wholly inadequate to cope with the situation. Under present law, the Coast Guard has the authority to stop and board a foreign vessel found in the territorial sea for the purpose of investigating the vessel and possibly ordering it to leave the territorial sea. No stronger action is now possible, for present law provides no penalties for those who violate our fishery rights. State officials likewise have their hands tied for lack of adequate Federal support and statutory backing. There is a need for Federal legislation which provides procedures for the apprehension, prosecution, and penalizing of those who fish illegally in U.S. waters or take illegally those continental shelf resources claimed by the United States. The bill I am introducing, I believe, meets that need quite adequately.

The bill first of all declares it unlawful for foreign vessels to fish within the territorial sea or to engage in the taking of continental shelf resources claimed by the United States, except as provided by an international agreement to which the United States is a party. Appropriate penalties for violation—not more than a $10,000 fine or 1 year imprisonment, or both—are delineated. Enforcement procedures permit the authorities to seize vessels illegally operating and allow the court to order forfeiture of the vessel. Administrative rules are to be issued by the Secretary of the Treasury. The responsibility for enforcement is to be shared by the Coast Guard, the Department of the Interior, the Bureau of Customs, and such State and territorial officers as the Secretary of the Interior may designate. Federal district courts are empowered to issue such warrants as may be required for the enforcement of the act. Persons authorized to carry out enforcement activities are given the power to execute these warrants, to arrest violators of the act, and to search suspect vessels. Finally, the bill provides for the seizure and disposal of fish taken in violation of the act, and establishes procedures for the setting of a bond by alleged violators.

Mr. President, this bill is necessary if our fishery rights are to have any meaning or if our claims are to command any adherence. Foreign fishing practices represent an increasing threat. Without legal ammunition we can only fire back with words. It is time to move in defense of our domestic fishing industry and in the interest of conserving our fishery resources. I have consistently advocated action in this area—the establishment of the 12-mile fishing zone measured from straight baselines, the explicit clarification of our claims to king crab and other continental shelf resources, the vigorous representation of the U.S. case in international circles in connection with foreign interference with our fishing efforts. And now I respectfully urge the enactment of the present bill—a bill to prohibit violation of U.S. fishery claims and to provide for the effective protection and enforcement of those claims. The threats posed by foreign fishing operations to our fishery resources, to our fishing industry and to our national defense make the passage of such a bill a matter of extreme urgency and great importance.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point, and that the bill be held at the desk until the close of business on Friday, August 16, so that Senators who care to join in cosponsorship may do so.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD and will lie on the desk, as requested by the Senator from Alaska.

The bill (S. 1988) to prohibit fishing in the territorial waters of the United States and in certain other areas by persons other than nationals or inhabitants of the United States, introduced by Mr. BARTLETT, was received, read twice by its title, referred to the Committee on Commerce, and 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, It is unlawful for any vessel, except a vessel of the United States or for any master or other person in charge of such a vessel, to engage in the fisheries within the territorial waters of the United States and its territories and possessions or to engage in the taking of any fishery resource of the Continental Shelf claimed by the United States except as provided by an international agreement to which the United States is a party.

SEC. 2. (a) Any person violating the provisions of this Act shall be fined not more than $10,000, or imprisoned not more than one year, or both.

(b) The vessels and all fish taken or retained in violation of this Act, or the monetary value thereof, may be forfeited.

(c) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act.

SEC. 3. (a) Enforcement of the provisions of this Act is the joint responsibility of the United States Coast Guard, the United States Department of the Interior, and the United States Bureau of Customs. In addition, the Secretary of the Interior may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of any territory or possession of the United States to carry out enforcement activities hereunder. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes.

(b) The judges of the United States district courts, the judges of the highest courts of the territories and possessions of the United States, and United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulations issued thereunder.

(c) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act.

(d) Such person so authorized shall have the power—

(1) with or without a warrant or other process, to arrest any person committing in his presence or view a violation of this Act or the regulations issued thereunder;

(2) with or without a warrant or other process, to search any vessel and, if as a result of such search he has reasonable cause to believe that such vessel or any person on board is in violation of any provision of this Act or the regulations issued thereunder, then to arrest such person.

(e) Such person so authorized, may seize, whenever and wherever lawfully found all fish taken or retained in violation of this Act or the regulations issued thereunder. Any fish so seized may be disposed of pursuant to the order of a court of competent jurisdiction, or if perishable, in a manner prescribed by regulations of the Secretary of the Treasury.

(f) Notwithstanding the provisions of section 2464 of title 28 when a warrant of arrest or other process in rem is issued in any cause under this section, the United States marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

SEC. 4. The Secretary of the Treasury is authorized to issue such regulations as he determines necessary to carry out the provisions of this Act.

PROHIBITION OF COMMUNIST PRODUCTS IN FEDERALLY ASSISTED PROJECTS

Mr. SCOTT. Mr. President, I introduce, for appropriate reference, two bills for myself and the Senator from South Dakota [Mr. MUNDT], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Utah [Mr. BENNETT], the Senator from Ohio [Mr. LAUSCHE], the Senator from Nebraska [Mr. CURTIS], the Senator from Nevada [Mr. CANNON], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Texas [Mr. TOWER].

The PRESIDENT pro tempore. The bills will be received and appropriately referred.

The bills, introduced by Mr. SCOTT, were received, read twice by their titles, and appropriately referred, as follows:

S. 1996. A bill to prohibit the use of products originating in any country or area dominated or controlled by communism in Federal or federally assisted projects for the construction, alteration, or repair of any building, public work, or facility; to the Committee on Public Works.

S. 1997. A bill to prohibit the use of products originating in any country or area dominated or controlled by communism in any housing construction which is assisted under programs administered by the Housing and Home Finance Agency, its constituent agencies, or the Veterans' Administration; to the Committee on Banking and Currency.

Mr. SCOTT. Mr. President, these two bills deal with the use of Communist products in the United States. My first bill prohibits the use of products originating in any country or area dominated or controlled by communism in Federal or federally assisted projects for the construction, alteration, or repair of any building, public work, or facility.

The second prohibits the use of such products in any housing construction which is assisted under programs administered by the House and Home Finance Agency, its constituent agencies, or the Veterans' Administration.

My proposals are made in response to a clear and obvious need. At the present moment, there exist no statutes which prevent the use of Communist products in construction work authorized, supervised, or otherwise related to the Federal Government. Reports indicate that the use of such products is considerable although sometimes unintentional.

My bills would assure that the contractor have on hand lists of countries from which his materials originate. Heretofore, no means have been available to the Government for determining the source of various products utilized in Federal construction work. My bills would create such means.

Two considerations should be uppermost in our minds. First, we must not forget that the Soviet Union has warned that the Western World will be destroyed through an economic and ideological struggle. Communist export policies are designed to damage the economies of the free world. Only secondarily to Communist regimes pay attention to raising the living standards of their people. This Soviet strategy makes curtailment of Communist trade expansion imperative. We must do away with the shortsighted policy of bartering with the Soviets for short-term profits at longrun disadvantage to the free nations.

Second, the more Communist products we use, the smaller will be the market for our domestic manufacturers. In times of abnormally high unemployment, this is an especially grievous effect. We need to expand now the use of domestic products. We need to create more jobs now. Our present approach does just the opposite and therefore should be changed, in our national interest.

THE OLDER AMERICANS ACT OF 1963

Mr. MCNAMARA. Mr. President, I introduce for appropriate reference a bill entitled "The Older Americans Act of 1963."

This bill has a dual purpose: It will establish an Administration of Aging within the Department of Health, Education, and Welfare, and it will authorize a 5-year program of Federal grants to the States and to public and nonprofit private agencies for research, training, community planning, and demonstration projects relating to aging.

The bill also creates a new position of Commissioner of Aging, appointed by the President and subject to confirmation by the Senate, to be head of the Administration of Aging.

In addition, the bill provides for a 16-member Advisory Committee on Older Americans, consisting of citizen members who have experience and interest in the special problems of the aging. The Secretary of Health, Education, and Welfare, or his designee, will serve as Chairman of this Commission.

Under the terms of this bill, a total of $70 million will be authorized in Federal grants over a 5-year period.

Of this amount, $50.5 million would be authorized for grants to the States for community planning, demonstration projects, training of personnel, and other programs.

The remaining $19.5 million in authorized grants would be made to public or private, nonprofit agencies, organizations or institutions for research, training, and demonstration projects in the field of aging.

Mr. President, at some future time I expect to speak in more detail on the merits and the provisions of this bill, which is being introduced today, in identical form, in the other House, by the Honorable JOHN E. FOGARTY, Member of Congress from Rhode Island.

However, we are introducing this proposed legislation at this time because we feel that there is a need for a high-level agency that will command the respect and pay full attention to the needs of our elderly, so that the social and economic problems of the Nation's 18 million senior citizens receive the attention they deserve.

We also believe there is a great need for the Federal Government to participate financially in efforts at the State and local levels to solve the problems of the aging.

I would point out that this proposed legislation implements the findings of the almost 3,000 delegates who participated in the 1961 White House Conference on Aging.

In addition, it represents the considered judgment of informed leaders in the field of aging throughout the country.

Mr. President, I ask unanimous consent that a summary of the major provisions of this bill be placed in the RECORD at this point in my remarks.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the summary will be printed in the RECORD, as requested.

The bill (S. 2000) to provide assistance in the development of new or improved programs to help older persons through grants to the States for community planning and services and for training, through research, development, or training project grants, and to establish within the Department of Health, Education, and Welfare an operating agency to be designated as the "Administration of Aging," introduced by Mr. MCNAMARA, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The summary presented by Mr. McNAMARA is as follows:

SUMMARY OF PROVISIONS OF "OLDER AMERICANS ACT OF 1963"

The bill provides for the creation of an operating agency known as the "Administration of Aging" within the Department of Health, Education, and Welfare and headed by a Commissioner of Aging.

The bill authorizes, over a period of 5 years, a total of $50.5 million in grants to the States for community planning and coordination, demonstration programs and training of special personnel.

It further authorizes, over a period of 5 years, a total of $19.5 million in grants by the Department of Health, Education, and Welfare to public or nonprofit private agencies, organizations, and institutions, for study, development, demonstration and evaluation projects relating to the needs of older persons, and for the specialized training of individuals in carrying out such projects.

The bill provides for the establishment of a 16-member Advisory Committee on Older Americans with the Secretary of Health, Education, and Welfare, as chairman.

A DECLARATION OF OBJECTIVES FOR OLDER AMERICANS

In keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the bill sets forth a 10-point declaration of objectives for older Americans. These objectives are: (1) An adequate income; (2) the best possible physical and mental health; (3) suitable housing; (4) full restorative services; (5) opportunity for employment without age discrimination; (6) retirement in health, honor, and dignity; (7) pursuit of meaningful activity; (8) efficient community services when needed; (9) immediate benefit from proven research knowledge; and (10) freedom, independence, and the free exercise of individual initiative.

ADMINISTRATION OF AGING

1. The act establishes the Administration of Aging in the Department of Health, Education, and Welfare.

2. It creates a new position of Commissioner of Aging to be head of the Administration of Aging who will be appointed by the President and confirmed by the Senate.

3. Function of the Administration: (a) serve as a clearinghouse of information on problems of the aged and aging; (b) assist the Secretary in all matters pertaining to the aging; (c) administer grants provided by the act; (d) develop, conduct and arrange for research and demonstration programs in the field of aging; (e) provide technical assistance and consultation to State and local governments; (f) prepare and publish educational materials dealing with welfare of older persons; (g) gather statistics in the field of aging; (h) stimulate more effective use of existing resources and available services.

GRANT PROGRAMS

The act provides for three types of grant programs to be administered by the Administration of Aging. They are:

1. Authorizing grants to the States by the Secretary, amounting to $5 million for the fiscal year ending June 30, 1964, $8 million in fiscal year 1965, and $12½ million for each of the next 3 fiscal years, for projects for: (a) community planning and coordination of programs for older citizens; (b) demonstration programs or activities relating to aging; (c) specialized training of personnel needed to carry out such programs and activities; (d) other programs to carry out the purposes of the act, including centers for older persons, exclusive of construction costs. Funds to be allocated to States on a formula based on each State's population aged 65 and over. State plans for project grants shall be approved by the Secretary.

2. The act authorizes grants by the Secretary to public or nonprofit private agencies, organization, institutions, or individuals, for study, development, demonstration and evaluation projects relating to the needs of older persons.

3. Grants by the Secretary may be made to organizations and individuals for the specialized training of personnel.

For purposes of carrying out the functions in items two and three above, the act authorizes the appropriation of $1.5 million for the fiscal year ending June 30, 1964, $3 million for fiscal 1965, and $5 million for each of the next 3 fiscal years.

ADVISORY COMMITTEE ON OLDER AMERICANS

The act provides for the establishment of an Advisory Committee on Older Americans consisting of the Secretary as Chairman, with 15 citizen members who are experienced in or who have demonstrated particular interest in special problems of the aging.

BILLS TO FURTHER PROTECT THE CONSTITUTIONAL RIGHTS OF MILITARY PERSONNEL

Mr. ERVIN. Mr. President, I am introducing today a number of bills to further protect the constitutional rights of military personnel. As of now, Senators BAYH, HUMPHREY, WILLIAMS of New Jersey, FONG, and COOPER are joining me in cosponsoring various ones of these measures as will be indicated on the respective bills at such time as they are printed.

At one time it was thought that military personnel had no constitutional rights, that they were not entitled to due process, that the only test of the legality of court-martial action was jurisdiction over the offender and the offense. This view is now discredited. The Supreme Court has made it clear that trial by court-martial must comply with fundamental concepts of due process and that administrative discharge action by the military is subject to judicial review. Congress, in 1950, gave implicit recognition to the constitutional rights of military personnel by enacting the Uniform Code of Military Justice which contained numerous safeguards, such as prohibitions against double jeopardy and self-incrimination designed to parallel protections afforded by the Bill of Rights. At the same time, the Congress established for the first time an independent civilian tribunal expressly empowered to review convictions by court-martial; and that court, the U.S. Court of Military Appeals, has rendered valuable service in reaffirming and protecting the constitutional rights of American servicemen.

While much progress has been made in providing more adequate implementation of constitutional protections for the men and women in uniform, complaints to the Subcommittee on Constitutional Rights and background research by it revealed that considerable room remains for improvement. Thus, hearings were held in February and March 1962 by the subcommittee to determine the nature of the legislation needed to insure more satisfactorily the constitutional rights of military personnel. Extensive staff work and correspondence both preceded and followed these hearings; and thousands of questionnaires were mailed to qualified persons requesting their comments and suggestions. In addition to information received from the Department of Defense and from the Court of Military Appeals, the subcommittee was furnished with the views of several bar associations and veterans' groups and received testimony from a number of outstanding experts in military law.

The bills which I am now introducing are designed to meet some of the problems which were uncovered by the subcommittee. It may be necessary to revise the wording of some of these measures; I am wedded to no particular language. However, the substance of each is, I feel, important if we are to grant the full measure of justice and security to those to whom this Nation has entrusted its defense. For this reason, I hope that hearings on these bills will be held at an early date.

The first of these bills seeks to guarantee to military personnel the basic right that any judicial or quasi-judicial proceeding affecting them be conducted by a fair and impartial tribunal. Over the years there have been numerous complaints of command influence in trials by court-martial and in certain administrative proceedings involving military personnel. The interpretation by the courts of article 37 of the Uniform Code, which purports to prohibit command influence with respect to trials by court-martial, is not, in my opinion, sufficient to provide the requisite protection against subtle influences affecting the impartiality of the members of a court-martial. For example, a commanding officer can, under some circumstances, give pretrial instructions to court-martial members without violating this article. Furthermore, there is no prohibition at the present time against command influence with respect to administrative proceedings involving military personnel, even though those proceedings can have tremendous impact on the future of a serviceman and may result in a discharge under other than honorable conditions.

The right to counsel is a fundamental right which applies to all Federal district courts and which the Supreme Court in Gideon against Wainwright has fully extended to State courts. Although an accused, in a general court-martial, must be furnished with a qualified lawyer to represent him, he may be convicted in a special court-martial and sentenced to a bad conduct discharge, a discharge under other than honorable conditions, without having the assistance of legally trained counsel. Similarly, an enlisted man may be discharged as undesirable—or under other than honorable conditions—without having qualified counsel to represent him. Because of the effects of such discharges and the stigma which they create, I consider that, except in an emergency situation created by war, any serviceman should have the assistance of a qualified attorney to assist him in connection with a proceeding which may result in a discharge under other than honorable conditions; and the second bill which I am introducing would so provide.

In the Federal district courts a period of 2 years is provided for the submission of a petition for new trial. Under the Uniform Code of Military Justice, an accused has only 1 year to petition for a new trial even if the petition is based on a fraud which has been committed on the court-martial which might involve a deprivation of due process. Moreover, many convictions by court-martial are not subject at all to the remedy of a petition for new trial, even if that petition is based on an alleged deprivation of constitutional rights. The third bill which I am introducing would extend the time period for the submission of a petition for new trial and would expand the scope of this remedy to include any conviction by court-martial.

The subcommittee has received many complaints concerning summary courts-martial, where a single officer acts as judge, jury, prosecuting attorney, and defense counsel. I find it hard to conceive that the criteria of due process are observed in such a court. Furthermore, any need for the summary court was removed when article 15 of the Uniform Code was expanded to allow a commanding officer to impose greater punishment nonjudicially. Therefore, to better protect the constitutional rights of the enlisted man, the fourth bill proposes the abolition of the summary court-martial.

The Subcommittee on Constitutional Rights has received complaints that a member of the Armed Forces, who was alleged to have been guilty of misconduct, was separated administratively under other than honorable conditions by reason of this misconduct, even though he had requested trial by court-martial. The Uniform Code of Military Justice provides recognition and protection of many of the constitutional rights of military personnel; and yet this protection is circumvented by the procedure that I have described. In short, in some cases a member of the Armed Forces has been separated under other than honorable conditions and thereby stigmatized without receiving safeguards which both the Constitution and the Congress intended for him to have. The fifth measure proposed today would prohibit any such procedure, although, of course, it would retain the right of the Armed Forces to discharge under honorable conditions a member of the Armed Forces who could no longer serve effectively.

Although article 44 of the Uniform Code of Military Justice provides considerable protection against double jeopardy, I still perceive substantial omissions in its coverage. For example, there is no express prohibition of the administrative discharge of a serviceman under other than honorable conditions for the same alleged misconduct for which he has already been tried and acquitted by court-martial. The sixth bill would be designed to further implement the constitutional right of military personnel to protection against double jeopardy.

The seventh bill recognizes that in some instances cumbersome procedures militate against a fair trial. In this connection, I found that a major impediment to the fair and speedy trial by general court-martial is the absence of any procedure for a pretrial conference between the law officer—who serves as the judge in a general court-martial—and the trial and defense counsel. Interlocutory matters such as the admissibility of evidence alleged to have been obtained by unreasonable search and seizure must be decided at the trial after the court-martial members have assembled. Therefore, lengthy continuances may be necessary after the court has been convened in order to dispose of matters which in Federal courts would have been disposed of long before a jury was impaneled. The result often militates against the fairness of the trial, both from the standpoint of the accused and that of the Government. Under the eighth bill substantial improvement would be effected in this regard.

In Federal district courts or in State courts, the criminal trial is presided over by an independent judge who rules on all matters of law. The Uniform Code of Military Justice requires that a law officer preside over general courts-martial. However, there is no provision for a law officer to preside over a special courts-martial, even though these courts can impose a sentence which includes a bad conduct discharge. As a result, there have been cases where a special court-martial sentenced a member of the Armed Forces to a bad conduct discharge without the legal guidance that would be required in a civilian trial to insure adequate protection of the constitutional rights of the accused. The stigma of such a discharge, of course, persists throughout the entire life of the person who receives it. The eighth bill which is being introduced would authorize the appointment of a law officer to any special court-martial and require that, except in time of war, a law officer be appointed in order for the special court to have the authority to adjudge a bad conduct discharge. Also, on the analogy of the waiver of trial by jury permitted in the Federal courts, the accused would be allowed to waive trial by the members of the court-martial and be tried before the law officer alone.

Administrative proceedings in the Armed Forces and especially the proceedings of boards of officers appointed to make findings and recommendations concerning discharge of military personnel, can have very serious consequences for members of the Armed Forces. In light of those consequences, it is not surprising that these administrative board proceedings raise important questions involving constitutional rights of military personnel. Although the Federal courts, since the Supreme Court's decision in Harmon against Brucker, have increased the scope of judicial review of administrative action taken by military authorities, the procedure for obtaining such review is often cumbersome. Moreover, the Federal courts generally do not have occasion for extensive contact with problems of military law. On the other hand, the Court of Military Appeals is a specialized court, well-acquainted with military law and with the constitutional rights of military personnel. The ninth bill, would establish a procedure for appellate review by the Court of Military Appeals with respect to certain administrative actions taken by the Armed Forces.

I have already mentioned the necessity for providing legal guidance for the accused from a trained lawyer as a prerequisite in cases which could result in his receiving a bad conduct discharge by a special court martial. A similar need exists with respect to administrative board proceedings that can result in an undesirable discharge, also a discharge under other than honorable conditions. Accordingly, the 10th measure would require that, except in time of war, a board hearing be held prior to an administrative separation under other than honorable conditions and that such a board have a legal adviser with the same qualifications and functions of those possessed by the law officer of a general court-martial under the Uniform Code of Military Justice. In this way, I feel sure that the guarantee of due process will be much better implemented for military personnel being proposed for undesirable discharges.

At the hearings of the Subcommittee on Constitutional Rights it was pointed out that there is no authority for compelling witnesses to appear before military boards concerned with administrative discharges or before an officer who is conducting a pretrial investigation under the provisions of article 32 of the Uniform Code of Military Justice. As a result, vital constitutional rights of confrontation and compulsory process are affected; and it is quite possible that in many cases the boards and investigating officers do not reach the same conclusions that they would reach if they were able to obtain the personal testimony of witnesses, instead of relying on written statements. The 11th bill would authorize administrative discharge boards, discharge review boards, and correction boards, and investigating officers appointed under article 32 of the Uniform Code to compel the attendance of witnesses and the production of evidence where, in their discretion, this seems desirable.

During the hearings of the subcommittee we were informed that in Army and Air Force Boards of Review, the chairman of the board rated the efficiency of the members of the board and that these ratings helped determine future promotions and assignments of these members. Naturally, this practice does not promote the independence of the board members in cases where they disagree with the chairman. Shortly after the hearings, the Army discontinued this practice; but the Air Force has apparently retained its rating system. Because any such rating system threatens the fairness of the appellate review of courts-martial, including the review of issues involving constitutional rights, it should be prohibited. The 12th bill contains such a prohibition.

Article 3(a) of the Uniform Code of Military Justice purports to authorize trial by court-martial of former members of the Armed Forces who, while in military status, committed serious crimes for which they cannot be tried by any

State or Federal court. In Toth against Quarles the Supreme Court held that this provision was unconstitutional and that court-martial jurisdiction cannot be extended to former members of the Armed Forces. The 13th of these bills would comply with the constitutional requirements set out by the Supreme Court and at the same time would fill a jurisdictional gap by authorizing trial in Federal district courts of serious violations of the Uniform Code which otherwise would not be subject to trial in any American tribunal.

Article 2 of the Uniform Code purports to subject to military jurisdiction civilian dependents and employees accompanying the Armed Forces overseas; but the Supreme Court has held this provision unconstitutional. To fill the jurisdictional gap created by the Supreme Court decisions, it has even been proposed that civilian dependents and employees overseas be given a quasi-military status and be organized into a support corps. I doubt the constitutionality of such a proposal and I am even less convinced of its desirability. The appropriate method for handling the problem seems to be the one contained in the 14th bill, which would authorize the trial in Federal district courts of persons who commit serious offenses while accompanying the Armed Forces outside of the United States. I realize that there may be differences of viewpoint as to whether the jurisdiction of American courts should be limited only to persons in a special relation to the military or should instead be extended to include other categories; as to what should be the statute of limitations and the authorized punishments; and as to which categories of offenses should be punishable. I believe, however, that the proposal dealing with the trial of certain persons accompanying the Armed Forces outside of the United States will provide the starting point for the solution of the problem.

The value of the constitutional right to counsel depends greatly on the ability and independence of the attorney who is defending the accused. It is my belief that both the independence and the ability of lawyers in the Navy might be enhanced by the creation of a Navy Judge Advocate General's Corps, like that of the Army. The 15th bill would establish this corps.

Congress has established Boards for the Correction of Military Records and these boards often provide a remedy for servicemen who have been deprived of their constitutional rights by reason of actions taken by military authorities. I feel, however, that 10 United States Code, section 1552, which establishes these boards, should be modified in order to provide a more effective and independent forum to review applications for correction of military records. The 16th bill I have introduced is designed to achieve that objective.

Among the most significant developments in military law is the field judiciary system. It was developed by the Army and later was adopted by the Navy. The members of the field judiciary preside as law officers of general courts-martial and apparently have implemented effectively the right of accused military personnel to be tried by court-martial in accordance with the concepts of due process. During the subcommittee's hearings, with the exception of the representatives of the one service which has not adopted a field judiciary system, the witnesses, who discussed the system, praised it. In light of the proven virtues of this system for insuring due process, I am proposing the statutory recognition and adoption of the field judiciary system. The 17th measures implements this proposal.

Under article 66 of the Uniform Code of Military Justice, boards of review examine the records of trial by court-martial in serious cases. In addition to reviewing the legality of the conviction, these boards have a power, which the Court of Military Appeals does not have, to weigh the evidence and to evaluate the sentence imposed. In many instances, claims of deprivation of constitutional rights must stand or fall on the basis of factual determinations made by these boards. I am convinced that the role of these boards in protecting the constitutional rights of servicemen and in insuring a fair and impartial appellate review of court-martial convictions can be better fulfilled by some changes in the structure and designation of the boards. The last of the 18 bills is designed to accomplish certain changes to improve the boards of review.

Each of the bills is the outgrowth of extensive study and detailed research. Each of them benefits from the testimony received during the hearings conducted in February and March 1962, by the Subcommittee on Constitutional Rights, from an intensive 17-day field investigation and from the comments and suggestions of hundreds of former judge advocates who have written to the subcommittee. Each of them is designed to better insure the constitutional rights of members and former members of the Armed Forces and of persons accompanying the Armed Forces overseas. No objective could be more important at the present time than to protect the constitutional rights of the men and women in uniform who stand ready to protect the Constitution of the United States.

The PRESIDENT pro tempore. The bills will be received and appropriately referred.

The bills, introduced by Mr. ERVIN, were received, read twice by their titles, and referred to the Committee on Armed Services, as follows:

S. 2002. A bill to insure to military personnel certain basic constitutional rights by prohibiting command influence in court-martial cases and in certain nonjudicial proceedings, and for other purposes;

S. 2003. A bill to protect the constitutional rights of military personnel by insuring their right to be represented by qualified counsel in certain cases, and for other purposes;

S. 2004. A bill to protect the constitutional rights of military personnel by increasing the period within which such personnel may petition for a new trial by court-martial, and for other purposes;

S. 2005. A bill to afford military personnel due process in court-martial cases involving minor offenses, to insure the right of counsel in such cases, and for other purposes;

S. 2006. A bill to provide additional constitutional protection in certain cases to members of the Armed Forces, and for other purposes;

S. 2007. A bill to broaden the constitutional protection against double jeopardy in the case of military personnel;

S. 2008. A bill to more effectively protect certain constitutional rights accorded military personnel;

S. 2009. A bill to amend chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, so as to provide additional constitutional protection in trials by courts-martial;

S. 2010. A bill to implement the constitutional rights of military personnel by providing appellate review of certain administrative board decisions, and for other purposes;

S. 2011. A bill to insure due process in the case of certain administrative actions involving military personnel;

S. 2012. A bill to amend chapter 47 (Uniform Code of Military Justice) so as to assure the constitutional rights of confrontation and compulsory process by providing for the mandatory appearance of witnesses and the production of evidence before certain boards and officers, and for other purposes; and

S. 2013. A bill to further insure the fair and independent review of court-martial cases by prohibiting any member of a board of review from rating the effectiveness of another member of a board of review, and for other purposes; to the Committee on Armed Services.

S. 2014. A bill to provide for compliance with constitutional requirements in the trials of persons who are charged with having committed certain offenses while subject to trial by court-martial, who have not been tried for such offenses, and who are no longer subject to trial by court-martial; and

S. 2015. A bill to provide for compliance with constitutional requirements in the trials of persons who, while accompanying the Armed Forces outside the United States, commit certain offenses against the United States; to the Committee on the Judiciary.

S. 2016. A bill to further insure due process in the administration of military justice in the Department of the Navy by establishing a Judge Advocate General's Corps in such department;

S. 2017. A bill to protect the constitutional rights of military personnel by providing an independent forum to review and correct the military records of members and former members of the Armed Forces, and for other purposes;

S. 2018. A bill to further insure to military personnel certain due process protection by providing for military judges to be detailed to all general courts-martial, and for other purposes; and

S. 2019. A bill to provide additional constitutional protection for members of the Armed Forces by establishing Courts of Military Review, and for other purposes.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that the group of 18 bills, introduced today by the Senator from North Carolina [Mr. ERVIN], be permitted to lie on the desk for 10 days so that additional Senators who wish to do so may cosponsor them.

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

Mr. MANSFIELD. I also ask unanimous consent that the texts of the bills, together with the memorandums accompanying them, may be printed in the RECORD.

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

The bills, together with the memorandum accompanying each bill, are as follows:

S. 2002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 837 (article 37) of title 10, United States Code, is amended to read as follows:

"§ 837. Art. 37. Unlawfully influencing the action of any court-martial or the action of certain military boards; effectiveness reports

"(a) No authority convening a general, special, or summary court-martial, nor any other person subject to this chapter, may lecture, censure, reprimand, or admonish the court or any member, law officer, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to the exercise of its functions and duties in the conduct of any past, pending, or future proceedings before the court.

"(b) No person subject to this chapter may lecture, censure, reprimand, or admonish any board, or any member, legal adviser, recorder, or counsel thereof, with respect to the finding and recommendations made by the board, or with respect to the exercise of its functions and duties in the conduct of any past, pending, or future proceedings before the board, if the proceedings with which such board is concerned relate to the administrative discharge or separation from service of any member of the armed forces, or to the nature and chracter of the type of discharge to be issued to any member of the armed forces, or to the demotion or reduction in grade of any member of the armed forces, or to any matter materially affecting the status or rights of any member of the armed forces.

"(c) The provisions of subsections (a) and (b) of this section shall not apply with respect (1) to general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial, or (2) to statements and instructions given in open court by the law officer of a general court-martial.

"(d) In the preparation of an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the armed forces, or in determining whether a member of the armed forces should be retained on active duty, no person subject to this chapter may, in preparing any such report (1) consider or evaluate the performance of duty of any such member as a member of a court-martial, or as a member of any board described in subsection (b) of this section, or (2) give a less favorable rating or evaluation of any member of the armed forces because of the zeal with which such member, as defense counsel, represented any accused before a court-martial, or any respondent before a board described in subsection (b) of this section.

"(e) No person subject to this chapter may attempt to coerce or, by any unauthorized means, influence directly or indirectly the action of any court-martial, or any other military tribunal, or of any board described in subsection (b) of this section, or of any member of such court-martial, tribunal, or board, in reaching the findings, sentence, or recommendations in any case, or the action of any convening, appointing, approving, or reviewing authority with respect to his judicial acts in the case of a court-martial or other military tribunal case, or his acts of approval or disapproval of the findings or recommendations made by a board described in subsection (b) of this section."

SEC. 2. Section 898 (article 98) of title 10, United States Code, is amended by striking out the semicolon at the end of item (2) and inserting in lieu thereof a comma and the following: "or with any provision of section 837 of this title (article 37) relating to the proceedings before certain military boards described in such section."

SEC. 3. The table of sections at the beginning of such chapter VII of chapter 47 of title 10, United States Code, is amended by striking out

"837. 37. Unlawfully influencing actions of court."

and inserting in lieu thereof

"837. 37. Unlawfully influencing the action of any court-martial or the action of certain military boards; effectiveness reports."

The memorandum accompanying Senate bill 2002 is as follows:

PROPOSED BILL TO PROTECT THE CONSTITUTIONAL RIGHTS OF SERVICE PERSONNEL TO RECEIVE A FAIR AND IMPARTIAL TRIAL BY COURT-MARTIAL, TO HAVE THE ASSISTANCE OF COUNSEL, AND TO HAVE CASES CONSIDERED IN ACCORDANCE WITH REQUIREMENTS OF DUE PROCESS

Background memorandum: Article 37 of the Uniform Code of Military Justice, 10 U.S.C., section 837, prohibits unlawful influence on the members of a court-martial. This prohibition reflects an effort to assure the impartial trial which is guaranteed in the sixth amendment. Unfortunately, despite the existence of article 37, complaints of command influence have not been absent with respect to trials by court-martial. Moreover, the Court of Military Appeals, by a 2-to-1 vote, has permitted the continuing use of pretrial instructions to court members. Testimony given to the subcommittee at its hearings on the constitutional rights of military personnel took the position that, in order to guarantee more adequately the impartiality of the court-martial members, the scope of article 37 should be broadened. Not only a convening authority or commanding officer but also the members of their staff should be prohibited from censuring or reprimanding any court personnel, including the counsel of the court. Any sort of pretrial instruction to members of courts-martial, now purportedly authorized by paragraph 38 of the Manual for Courts-Martial, should be expressly prohibited. Evaluation of a person's performance as a court member should not be a basis for the rating he receives on an effectiveness or fitness report used for purposes of determining his promotions and assignments. Similarly, a defense counsel should not be subject to the threat of a low rating on his own fitness report in retaliation for his vigorous defense of an accused person; otherwise the accused may, as a practical matter, be deprived of his constitutional right to the full assistance of counsel.

Article 37 contains no prohibition of command influence exerted upon discharge boards or other administrative boards which are considering important rights of service personnel—rights affecting their "liberty" and "property." For many of the same reasons applicable to courts-martial, the concept of due process would seem to demand that the participants in such board actions be protected from sanctions or retaliation, enabling them to perform their duties as their conscience guides them, instead of being forced to rely on a superior military authority for direction.

To implement these proposals for protecting the constitutional right of military personnel to a fair and impartial trial or hearing which will accord with the requirements of due process, it seems necessary to:

1. Rewrite article 37 of the Uniform Code, 10 U.S.C., section 837, to provide that, not only a convening authority or other commanding officer, but also any member of their staff, or other person subject to this code, shall not censure, reprimand, or admonish a court-martial, or any member, law officer, or counsel thereof.

2. To avoid indirect efforts to control the behavior of court members, add to article 37 a provision that, in the preparation of any effectiveness report, fitness report, efficiency report or other document used for determining promotions, transfers, or assignments of service personnel, no person subject to the Uniform Code shall be free to consider or evaluate any performance of duty as a court-martial member.

3. To avoid indirect efforts to inhibit defense counsel, add to article 37 a provision that, in the preparation of any effectiveness report, fitness report, efficiency report or other document used for determining promotions, transfers, or assignments of service personnel, and with respect to a person who has served as a defense counsel, no person subject to the Uniform Code shall be free to prepare a less favorable report than would otherwise be the case because of the vigor and zeal with which the person being reported on has performed his duties as defense counsel.

4. Prohibit expressly the giving of instructions before trial by any convening authority, other commanding officer, or member of their staff, with the exception of general courses in military justice designed to instruct the members of a command concerning the provisions of military law and the procedures of courts-martial and with the proviso that instructions given in open court by the law officer of a general court-martial to the members of the court, at the outset of the trial or otherwise, shall not be prohibited.

5. Either broaden article 37 or put in an additional article at the end of the Uniform Code (or an additional section elsewhere in title 10) so that the prohibition of article 37 shall be equally applicable to board proceedings concerning administrative discharges or separations and administrative reductions. Thus, no authority convening a board to make findings or recommendations, or both (with respect to an administrative discharge or separation, or with respect to the nature and character of such discharge or separation, or with respect to any demotion or reduction of any service personnel, or with respect to any matter affecting materially the status or rights of any officer or serviceman) or any commanding officer or member of his staff, or other person subject to the Uniform Code, shall censure, reprimand or admonish such board, or any member, legal adviser, recorder, or counsel thereof with respect to the findings or recommendations made by the board, or with respect to any other exercise of its or his functions in the conduct of its proceedings. The same provisions concerning effectiveness or fitness reports should apply here that would apply to courts-martial under the preceding suggestions to amend article 37. Also, there would be a catchall prohibition applicable like that in article 37 which would apply to anyone subject to the Uniform Code of Military Justice who attempts to coerce, or by any unauthorized means influence, the action of any board of officers or other board considering findings or recommendations pertinent to an administrative discharge or separation, or an administrative demotion or reduction of any service personnel, or with respect to any other matter affecting materially the status or rights of any officer or serviceman, or any member of such board, in making findings or recommendations or in the performance of their duties in any case or proceeding, or the

action of any convening, approving, or reviewing authority with respect to his acts in connection with such case or proceeding. Depending on the manner in which the prohibition against unlawful influence is applied to administrative proceedings in the armed services, it will also be necessary to rewrite article 98 of the Uniform Code, 10 U.S.C. 898, so that the penalty it authorizes will expressly apply to such behavior.

S. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 819 (article 19) of title 10, United States Code, is amended to read as follows: "A bad-conduct discharge may not be adjudged unless a complete record of the proceedings and testimony before the court has been made and, except in time of war, unless the accused was represented at the trial, or afforded the opportunity to be represented at the trial, by a defense counsel with qualifications not less than those prescribed under section 827(b) of this title (article 27(b))."

SEC. 2. (a) Chapter 47 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§941. Art. 141. Procedural requirements and right to counsel in certain nonjudicial proceedings

"(a) Except as provided in subsection (b) of this section, no member of the Armed Forces shall be administratively discharged or separated from service under conditions other than honorable unless such member has been afforded an opportunity to appear and present evidence in his own behalf before a board convened by appropriate authority for the specific purpose of determining whether such member shall be discharged or separated from service under conditions other than honorable. Any member of the Armed Forces with respect to whom such a board is convened shall have the right, unless waived by him, to be represented before such board by counsel whose qualifications are not less than those prescribed under section 827(b) of this title (article 27(b)).

"(b) The provisions of subsection (a) shall not apply in the case of any member of the Armed Forces discharged or dismissed from service pursuant to the sentence of a general or special court-martial, or in time of war if the Secretary concerned suspends the operation of such subsection. Any member of the Armed Forces may waive his right to appear and be represented by counsel before a board convened for the purpose described in subsection (a) if such member is given notice in writing of his right to appear and present evidence in his own behalf before such board and of his right to be represented by counsel before such board, and such member is afforded an opportunity to consult with counsel, whose qualifications are not less than those prescribed under section 827(b) of this title (article 27(b)), regarding the waiver of such member's right to appear before such board."

(b) The table of sections at the beginning of subchapter XI of chapter 47 of such title is amended by adding at the end thereof a new item as follows:

"941. 141. Procedural requirements and right to counsel in certain nonjudicial proceedings"

The memorandum accompanying Senate bill 2003 is as follows:

PROPOSED BILL TO PROTECT THE CONSTITUTIONAL RIGHTS OF SERVICE PERSONNEL TO HAVE THE ASSISTANCE OF COUNSEL AND NOT TO BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW

Background memorandum: A general court-martial has the jurisdiction to impose on a serviceman a punishment which may include a dishonorable discharge or a bad conduct discharge. In a trial before such a court-martial the accused will be offered the services of defense counsel, whose qualifications, as defined by article 27(b) of the Uniform Code, 10 U.S.C., section 827(b), include graduation from an accredited law school or membership in a bar and certification of his competence by the Judge Advocate General of the Armed Force of which the defense counsel is a member.

A special court-martial is entitled to impose a punishment which may include a bad conduct discharge, if a verbatim record is made of the proceedings. In the special court-martial a "defense counsel" must be appointed for the accused. However, there is no statutory specification of the qualifications required of such a counsel, except in terms of the trial counsel's qualifications, and so the defense counsel may be a person with absolutely no formal legal training or experience. In the event the accused is sentenced to a bad conduct discharge by a special court-martial, there will be extensive appellate review of the findings and sentence pursuant to articles 66 and 67 of the Uniform Code, 10 U.S.C., sections 866, 867 (see also article 70, 10 U.S.C., section 870); but this is a review "on the basis of the entire record." If evidence or information favorable to the accused has not been placed in the record by his counsel who, by reason of his lack of legal training, may not recognize what evidence would probably benefit the accused—then the appellate defense counsel are unable to take advantage thereof in the accused's behalf. A sentence to bad conduct discharge which survives the appellate review is treated as final, in the absence of a petition for new trial submitted within a 1-year period of time. See articles 73 and 76, 10 U.S.C., sections 873, 876.

Each armed service makes provision in its directives for administrative discharges, which may be honorable, general, or undesirable. The undesirable discharge is a discharge under other than honorable conditions and, for purposes of veterans' benefits and certain other rights, is treated like the bad conduct discharge imposed by a special court-martial. Sometimes, in fact, it may be issued for misconduct that would be cognizable by a court-martial. Usually the serviceman being considered for an undesirable discharge is provided the opportunity for a hearing before some sort of board of officers which can make findings or recommendations pertinent to the proposed hearing. While the respondent serviceman may be provided with counsel to represent him at this board hearing, the counsel may not be legally trained or experienced. Quite often the hearing before a board is waived by the serviceman after consulting with counsel; and in this instance, too, the counsel is sometimes not legally trained.

According to all available evidence the recipient of a discharge under other than honorable conditions—whether it be a bad conduct discharge or an undesirable discharge—encounters considerable difficulty in obtaining employment, is restricted from engaging in many types of activities, and is stigmatized. Thus, such a discharge has great effect on his liberty to engage in many activities and the property that he has in being allowed to enter activities which are open to other members of the community.

Therefore, the fifth amendment guarantee that no person shall "be deprived of life, liberty, or property, without due process of law" is quite relevant to the circumstances under which a serviceman may be discharged from the Armed Forces. Furthermore, since a court-martial is a form of criminal prosecution and since a sentence to a bad conduct discharge involves such severe consequences to the recipient, the sixth amendment guarantee of the "assistance of counsel" is especially significant in determining whether a special court-martial should be empowered to sentence a serviceman to a bad conduct discharge when he has not been provided with the assistance of legally trained counsel—assistance that would be mandatory if he were being prosecuted in a Federal district court. Indeed, whether the serviceman is confronting a court-martial that may sentence him to a bad conduct discharge or a board of officers that may recommend that he be issued an undesirable discharge, the availability of a legally trained counsel to advise and assist him is one of the best guarantees that he will receive due process in the proceeding.

In light of these considerations, witnesses in the hearings of the Subcommitte on Constitutional Rights recommended that legally trained counsel should be provided for an accused serviceman as a prerequisite for a special court-martial's having the power to adjudge a bad conduct discharge. The same position is taken concerning the power of a discharge board to recommend an undesirable discharge. Moreover, so that a serviceman will not be misadvised by a nonlegally trained counsel to waive a board hearing and the attendant procedural rights, a waiver of rights to a hearing should not be accepted or be binding unless the respondent serviceman has been given reasonable opportunity to consult with legally trained counsel. The requirement of counsel should be limited to time of peace in line with the general position that procedures which might be infeasible in wartime should not be discarded solely on this ground if they are otherwise suitable for peacetime. Indeed, the Uniform Code has several articles which make special provision for time of war. (See arts. 35, 43, 71, 85, 90, 99, 105, 106, 113.)

To implement the purpose of guaranteeing legally trained counsel as a prerequisite for a discharge under other than honorable conditions, it would seem desirable to:

1. Amend article 19 of the Uniform Code, 10 U.S.C. 819, to add as a prerequisite for a bad conduct discharge that it not be adjudged unless a complete record has been made and "except in time of war unless accused has been provided with or been offered the services of a defense counsel who is legally qualified to serve as trial counsel or defense counsel of a general court-martial in accordance with the requirements of article 27(b) of the Uniform Code (10 U.S.C. 827(b))."

2. Add a separate article at the end of the Uniform Code or elsewhere in title 10 to provide that, "except in time of war no board of officers shall be empowered to recommend that a serviceman or officer be issued an undesirable discharge or other discharge under other than honorable conditions, or be separated under other than honorable conditions, or to make any finding which shall be used by that board or otherwise as the basis for any such recommendation or for any such discharge or separation; unless in any hearing before such board of officers that serviceman or officer has been provided with or been offered the services of a counsel who is legally qualified to serve as trial counsel or defense counsel of a general court-martial in accordance with the requirements of article 27(b) of the Uniform Code of Military Justice, 10 U.S.C. 827(b)."

3. Either as an addition to the article or section discussed immediately hereinabove, or as a separate article of the Uniform Code or a separate section of title 10, provide that "except in time of war no waiver of any statutory or other right to a hearing before a board of officers shall have, or be given, any effect whatsoever unless, prior to the execution of such a waiver, the officer, serviceman, or other person subject to the Uniform Code of Military Justice who executes the waiver has been provided or offered the opportunity to consult concerning the proposed execution of the waiver with a counsel who is legally

qualified to serve as trial counsel or defense counsel of a general court-martial in accordance with the requirements of article 27(b) of the Uniform Code of Military Justice, 10 U.S.C. 827(b)."

S. 2004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 873 (article 73) of title 10, United States Code, is amended to read as follows: "At any time within two years after approval by the convening authority of any court-martial sentence, the accused may petition the Judge Advocate General for a new trial on the ground of newly discovered evidence or fraud on the court."

SEC. 2. The amendment made by the first section of this Act shall be effective with respect to any court-martial sentence approved by the convening authority on and after the date of enactment of this Act and with respect to any court-martial sentence approved by the convening authority not more than one year prior to the date of the enactment of this Act.

The memorandum accompanying Senate bill 2004 is as follows:

PROPOSED BILL TO PROTECT THE CONSTITUTIONAL RIGHTS OF SERVICE PERSONNEL TO TRIALS BY COURT-MARTIAL IN ACCORDANCE WITH REQUIREMENTS OF DUE PROCESS

Background memorandum: Article 73 of the Uniform Code of Military Justice, 10 United States Code 873, provides, that, at any time within 1 year after approval by the convening authority of a court-martial sentence which extends to death, dismissal, dishonorable or bad conduct discharge, or confinement for 1 year or more, the accused may petition the Judge Advocate General for a new trial on ground of newly discovered evidence or fraud on the court. Subject to a successful petition for new trial under article 73 and the authority of the Secretary of the Department, under article 74, to substitute an administrative discharge for an executed discharge or dismissal pursuant to court-martial sentence, the Uniform Code provides that court-martial judgments shall be final (article 76). Thus, if a serviceman has been convicted in a trial wherein, because of some material fraud on the court martial or otherwise, he has been deprived of due process, he will have no remedy unless the sentence involved a discharge or confinement for 1 year or more; and even if the sentence were sufficiently severe to authorize relief, he must petition for a new trial within 1 year. On the other hand, Federal Rule 33 of Criminal Procedure authorizes a petition for new trial by reason of newly discovered evidence at any time within 2 years from judgment.

Since in some instances a fraud on the court martial may constitute a deprivation of due process or the newly discovered evidence may reveal that a conviction was obtained by means which deprived the accused of due process, and since—aside from the dubious remedy of judicial action predicated on the theory that the absence of due process deprived the court martial of jurisdiction and made its action void—the accused is so limited in his means to remove the stigma and the other consequences of the unjust conviction, better protection of the accused's constitutional rights demands that the remedy of the petition for a new trial be expanded. In the first place, the time limit on the petition for new trial should be expanded to 2 years to conform to the requirements of Federal Rule 33 of Criminal Procedure. There is no reason that it will be easier for the serviceman than for the civilian to obtain new evidence after a trial is completed; and therefore the time limit for the serviceman should be no less liberal than for the civilian.

Secondly, the petition for new trial should be made available with respect to any conviction by court martial, irrespective of the sentence imposed.

To implement this broadening of the remedy of the petition for new trial, it would be necessary to:

1. Substitute in article 73, 10 United States Code 873, the words "2 years" for "1 year."

2. Rewrite article 73 to make the petition for new trial available after "approval by the convening authority of any court-martial sentence."

3. Probably this remedy should be made available retroactively to apply to any conviction by any kind of court martial that had occurred within 2 years of the date of the proposed amendment to article 73. Certainly it would be desirable to specify in the amending legislation the extent to which it would apply to any court-martial sentences previously imposed.

S. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 810 (article 10) of title 10, United States Code, is amended by striking out "with an offense normally tried by a summary court-martial," and inserting in lieu thereof "with an offense normally disposed of under section 815 of this title (article 15),".

SEC. 2. Section 816 (article 16) of title 10, United States Code, is amended to read as follows:

"§ 816. Article 16. Courts-martial classified

"The two kinds of courts-martial in each of the Armed Forces are—

"(1) general courts-martial, consisting of a law officer and not less than five members; and

"(2) special courts-martial, consisting of not less than three members."

SEC. 3. Section 820 (article 20) and section 824 (article 24) of title 10, United States Code, are hereby repealed.

SEC. 4. The first sentence of section 837 (article 37) of title 10, United States Code, is amended by striking out "general, special, or summary court-martial," and inserting in lieu thereof "general or special court-martial,".

SEC. 5. Section 843 (article 43) of title 10, United States Code, is amended by striking out in subsections (b) and (c) "summary court-martial" wherever it appears in such subsections and inserting in lieu thereof "special court-martial".

SEC. 6. Subsection (b) of section 854 (article 54 (b)) of title 10, United States Code, is amended by striking out "special and summary court-martial" and inserting in lieu thereof "special court-martial".

SEC. 7. Subsection (c) of section 865 (article 65(c)) of title 10, United States Code, is amended by striking out "special and summary court-martial" and inserting in lieu thereof "special court-martial".

SEC. 8. (a) Section 934 (article 134) of title 10, United States Code, is amended by striking out "general, special, or summary court-martial," and inserting in lieu thereof "general or special court-martial,".

(b) Such section is further amended by substituting a comma for the period at the end thereof and adding the following: "or shall be disposed of under authority of section 815 of this title (article 15)."

SEC. 9. Subsection (a) of section 936 (article 136(a)) of title 10, United States Code, is amended by striking out paragraph (3), and by renumbering paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

SEC. 10. (a) Subsection (a) of section 4711 of title 10, United States Code, is amended by striking out "shall direct a summary court-martial" and inserting in lieu thereof "shall appoint a special investigating officer".

(b) Subsections (b) and (c) of such section are amended by striking out "summary court-martial" wherever it appears in such subsections, and inserting in lieu thereof "special investigating officer".

SEC. 11. (a) Subsection (b) of section 4712 of title 10, United States Code, is amended by striking out "shall direct a summary court-martial" and inserting in lieu thereof "shall appoint a special investigating officer".

(b) Subsection (c) of such section is amended (1) by striking out "summary court-martial" and inserting in lieu thereof "special investigating officer"; (2) by striking out "in the court's possession" and inserting in lieu thereof "in the investigating officer's possession"; and (3) by striking out "the court's final report" and inserting in lieu thereof "the investigating officer's final report".

(c) Subsections (d), (e), (f) and (g) of such section are amended by striking out "summary court-martial" wherever it appears in such subsections, and inserting in lieu thereof "special investigating officer".

(d) Subsection (f) of such section is further amended by striking out "in the court's possession" and inserting in lieu thereof "in the investigating officer's possession".

SEC. 12. (a) Subsection (a) of section 9711 of title 10, United States Code, is amended by striking out "shall direct a summary court-martial" and inserting in lieu thereof "shall appoint a special investigating officer".

(b) Subsections (b) and (c) of such section are amended by striking out "summary court-martial" wherever it appears in such subsections, and inserting in lieu thereof "special investigating officer".

SEC. 13. (a) Subsection (b) of section 9712 of title 10, United States Code, is amended by striking out "shall direct a summary court-martial" and inserting in lieu thereof "shall appoint a special investigating officer".

(b) Subsection (c) of such section is amended (1) by striking out "summary court-martial" and inserting in lieu thereof "special investigating officer"; (2) by striking out "in the court's possession" and inserting in lieu thereof "in the investigating officer's possession"; and (3) by striking out "the court's final report" and inserting in lieu thereof "the investigating officer's final report".

(c) Subsections (d), (e), (f), and (g) of such section are amended by striking out "summary court-martial" wherever it appears in such subsections, and inserting in lieu thereof "special investigating officer".

(d) Subsection (f) of such section is further amended by striking out "in the court's possession" and inserting in lieu thereof "in the investigating officer's possession".

The memorandum accompanying Senate bill 2005 is as follows:

PROPOSED BILL TO PROTECT THE CONSTITUTIONAL RIGHTS OF SERVICE PERSONNEL TO RECEIVE DUE PROCESS IN THE TRIAL OF MINOR OFFENSES AND TO BE TRIED IN A FAIR AND IMPARTIAL TRIBUNAL WHERE THEY SHALL HAVE THE RIGHT TO THE ASSISTANCE OF COUNSEL

Background memorandum: Articles 20 and 24 of the Uniform Code of Military Justice (10 U.S.C. 820 and 824) authorize summary courts-martial and direct who may convene such courts. These military tribunals cannot try officers or warrant officers and may not adjudge a punishment of more than 1 month's confinement at hard labor (or 45 days hard labor without confinement or 60 days restriction) and a forfeiture of 1 month's pay. Therefore, as a practical matter the summary court-martial is used primarily for the trial of minor offenses—and thus corresponds to a police court or recorder's court. (Because of the fact that the summary court generally is used only for minor offenses, the Uniform Code in art. 10, 10 U.S.C. 810, expressly provides that

one charged only with an offense normally tried by a summary court-martial shall not ordinarily be placed in pretrial confinement.) Because the summary court-martial is used for the minor offense which has not been disposed of under article 15 by nonjudicial punishment, the number of trials by summary court-martial have usually been much greater than the trials by special or general courts-martial, which are usually reserved for more serious offense. Thus, in practice the serviceman has been much more likely to experience trial by summary court-martial. Unfortunately, if he does have such an experience, he may be very unimpressed by the quality of justice meted out, and he may be outraged by lack of adherence to concepts of due process in such a court-martial.

The summary court-martial consists of a single officer, who acts as judge, jury, prosecuting attorney, and defense counsel. Occasionally he does not shine in this last role, and the combination of duties imposed on the summary court-martial raises, in itself, some question of due process. By reason of the accused's "right to be represented in his defense before a general or special court-martial by civilian counsel if provided by him" (art. 38), it might appear by negative implication, that an accused lacks any statutory right to retain a civilian attorney to represent him before a summary court-martial. Under this construction of the Uniform Code there is a serious question of deprivation of the right to counsel guaranteed by the sixth amendment.

As a practical matter the review of a summary court-martial is rather limited in scope, since there is no requirement that the record of trial contain any summary of the testimony given. In the event relief is requested from a discharge review board or correction board, there is some question as to the scope of the action either board may take because of the finality provisions in article 76 of the Uniform Code.

The testimony received by the subcommittee makes it clear that in light of the recent expansion of the authority to punish nonjudicially under article 15 of the Uniform Code, see Public Law 87–648, there is currently no need to retain the summary court-martial and its continued existence presents a substantial risk of defeating some of the objectives that Congress intended to achieve through Public Law 87–648 [1]. Accordingly, it appears necessary to revise the Uniform Code forthwith to eliminate entirely the summary court-martial.

To effectuate the purpose of eliminating the summary court-martial, the following amendments would appear necessary:

1. Amend article 10, 10 U.S.C. 810, to provide that a person charged with an offense normally disposed of by nonjudicial punishment under article 15, ordinarily shall not be placed in confinement; and delete all reference in article 10 to the summary court-martial.

2. Rewrite article 16, 10 U.S.C. 816, to refer to two, rather than three, kinds of court-martial—namely, the general and the special court-martial; delete article 16(3) entirely.

3. Delete article 20 entirely.

4. Delete article 24 entirely.

5. In article 37, refer only to the convening authority of a general or special court-martial and eliminate any reference to the summary court-martial.

6. In articles 43(b) and 43(c), substitute the word "special" for "summary" in determining what is the critical date for the operation of the 3- or 2-year statute of limitations, as provided respectively by those two subsections.

7. In article 54(b) delete all reference to the summary court-martial.

8. In article 65(c), which deals with appellate review, eliminate all reference to review of "summary court-martial records," so that the only review provided by that subsection will concern special court-martial records.

9. In article 134, 10 U.S.C. 934, delete all reference to summary courts-martial. Article 134 contains no specific reference to, or authority for, imposing nonjudicial punishment for the offenses embraced within article 134. Accordingly, it might be desirable to insert at the end of article 134 some such phrase as: "or shall be nonjudicially punished in accordance with article 134 of this code."

10. Delete article 136(a)(3). In certain instances not related directly to military justice, statutory reference is made to the summary court-martial.

See 10 U.S.C. 4711, 4712, 9711, 9712. Those sections should be rewritten to provide that, instead of a "summary court-martial," an officer shall be detailed specifically to perform the functions envisaged in those sections.

[1] Indeed, the subcommittee has recently been informed by the Air Force that the expanded article 15 has virtually eliminated the summary court in many commands.

S. 2006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 47 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"941. Art. 141. Right to trial by court-martial

"(a) In any case in which a military department proposes action to administratively discharge or separate any member of the armed forces under conditions other than honorable on the grounds of alleged misconduct, such member shall, upon his written request and in lieu of such proposed action, be granted a trial by general or special court-martial on such alleged misconduct. Except in any case in which a member has had no reasonable opportunity to consult with qualified counsel (counsel with qualifications not less than those prescribed in section 827(b) of this title), a member shall be deemed to have waived his right to trial by court-martial under this section unless he makes written application for trial by court-martial within ten days after receipt of written notice of the proposed administrative action. Any notice to a member of the proposed administrative action to be taken against him shall include notice of the alleged misconduct constituting the basis for such action and such member's right to trial by court-martial on such alleged misconduct in lieu of the proposed administrative action. Nothwithstanding the foregoing provisions, a member may be discharged or separated from the military service under conditions other than honorable on the grounds of misconduct if the misconduct alleged was, to a substantial degree, the basis for the conviction of a criminal offense in a State or Federal court of competent jurisdiction.

"(b) Any member of the Armed Forces granted a trial by court-martial pursuant to subsection (a) of this section shall be deemed to have waived the right to plead any statute of limitations applicable to any alleged misconduct with which he is charged and which constitutes the basis for the proposed administrative action described in subsection (a) of this section. Such member shall also be deemed to have waived any right to a plea of immunity or prohibition against trial by court-martial to which he might otherwise be entitled under the terms of any statute, treaty, or executive agreement; and such member shall be deemed to have waived any plea to which he might otherwise be entitled on account of any foreign country having jurisdiction over the alleged misconduct or on account of any acquittal, conviction, or other ruling with respect to such alleged misconduct made by any court of any foreign country.

"(c) The provisions of this section may be suspended in time of war with respect to any military department by the Secretary concerned.

"(d) As used in this section the term 'misconduct' means any act or failure to act which, at the time of its commission or omission, would have constituted a violation of subchapter X of this chapter."

SEC. 2. The amendments made by this section shall be in addition to and not a substitute for the provisions of section 804 of this title (article 4).

SEC. 3. The table of sections at the beginning of subchapter XI of chapter 47 of title 10, United States Code, is amended by adding at the end thereof the following:

"941. 141. Right to trial by court-martial."

The memorandum accompanying Senate bill 2006 is as follows:

PROPOSED BILL TO PROTECT CONSTITUTIONAL RIGHTS TO DUE PROCESS, CONFRONTATION, COMPULSORY PROCESS, AND ASSISTANCE OF COUNSEL

Background memorandum: In 1951 Congress enacted the Uniform Code of Military Justice, which provides a number of safeguards corresponding to some of the constitutional rights protected in the Bill of Rights. Moreover, the Court of Military Appeals has enforced a requirement of military due process.

The armed services have established procedures for administrative separation or discharge of officers and servicemen; and in some instances the discharge or separation will be based on alleged misconduct and will be under conditions other than honorable. Such a discharge creates a considerable stigma, affects eligibility for veterans' benefits, and usually severely restricts the employment and other opportunities available to the ex-serviceman; thus, it pertains to his liberty and, in the broad sense, to his property. However, the administrative discharge proceedings, even when the discharge is to be predicated on alleged misconduct, are not subject to the same safeguards of due process that would apply to courts-martial. In instances where the serviceman or officer does not deny the alleged misconduct and request trial by court-martial, he is not prejudiced by the nonavailability in administrative discharge proceedings of protections that would be available in a court-martial—such as the opportunity for confrontation and cross-examination or to have compulsory process issued to secure the attendance of witnesses. On the other hand, when the misconduct is vigorously denied and trial by court-martial is specifically requested, it seems unfair for the armed services to presume guilt rather than innocence, and to discharge or separate the serviceman under other than honorable conditions by reason of the alleged misconduct, even though it has not been proved in a proceeding where the constitutional rights of the serviceman have been protected This reasoning does not imply that the accused serviceman or officer who is not brought to trial must be retained in the armed services; instead he may still be discharged under honorable conditions for the convenience of the Government.

To avoid the bypassing of safeguards for constitutional rights provided by the Uniform Code, it would appear necessary:

1. Either by an additional article at the end of the Uniform Code of Military Justice or by addition of a new section to title 10, to require that in the event action is proposed or commenced with a view to discharge or separate a serviceman or officer under other than honorable conditions by reason

of alleged misconduct and a written request is made by the serviceman or officer to be tried by court-martial for such misconduct in accordance with the Uniform Code of Military Justice and if no conviction in any State or Federal court shall have resulted from or been based in substantial part upon the alleged misconduct, or some act or omission which comprises a part or aspect of the alleged misconduct, and if the request for trial by court-martial is denied and no court-martial takes place, then no administrative discharge or separation under other than honorable conditions based solely or in part upon the same misconduct shall be recommended or issued, provided, however, that this article (section) shall in no way restrict the power and authority of the Armed Forces to separate or discharge an officer or serviceman under honorable conditions for the convenience of the Government and under regulations prescribed by the Secretary of the Department, even though the discharge or separation under honorable conditions may result from or be based solely or partly upon alleged misconduct for which the serviceman or officer shall never have been tried or convicted by court-martial or other military tribunal or by any State or Federal court or the court of any foreign country. If a serviceman or officer makes written request to be tried by court-martial for misconduct of which any foreign court has taken or may take cognizance or over which it may have or exercise jurisdiction, and if under treaty, statute or otherwise, the armed services might otherwise be precluded and barred from prosecuting such misconduct, then the request for trial by court-martial shall constitute a binding waiver of any immunity or prohibition against trial by court-martial which might otherwise exist under the terms of any such treaty, statute or otherwise, and, after having made such written request, no serviceman or officer shall be allowed to enter any plea in bar of trial by reason of any acquittal, conviction, or other proceedings in the courts of any foreign country. (The last proviso is to take account of the situation that might otherwise exist if a serviceman asked to be court-martialed for misconduct which had been the basis of proceedings in a foreign tribunal. Under the provisions of the NATO Status of Forces Agreement and certain other treaties or agreements, an acquittal or conviction in the foreign court might preclude trial by court-martial and, therefore, constitute grounds for a plea in bar. It seems appropriate under such circumstances to prevent the serviceman from taking advantage of such a plea.)

S. 2007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 844 (article 44) of title 10, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) No person shall be administratively discharged or separated from military service under conditions other than honorable if the grounds for such administrative action are based in whole or in part upon misconduct for which such person has been previously tried by court-martial and acquitted; or for which such person has not been acquitted or convicted but for which he cannot again be tried by reason of subsection (c) of this section.

"(e) No military board shall be authorized, in the case of any person, to make any findings or recommendations or to take any actions that are less favorable to such person than the findings or recommendations made, or the actions taken, in the case of such person by any previous military board, if (1) the matter considered by both boards (or the same board in two separate proceedings) relates to whether such member should be discharged or separated from military service under conditions other than honorable, or whether such member should be reduced in grade, and (2) the evidence before the second (or subsequent) board is substantially the same as the evidence that was before a previous board."

The memorandum accompanying Senate bill 2007 is as follows:

BILL TO IMPLEMENT FURTHER THE CONSTITUTIONAL RIGHT TO DUE PROCESS AND TO PROTECTION AGAINST FORMER JEOPARDY

Background memorandum: The fifth amendment contains a prohibition against twice putting anyone in jeopardy of life or limb; and article 44 of the Uniform Code of Military Justice, 10 U.S.C. 844, implements this same prohibition. However, this article does not purport to apply in any way to administrative proceedings, even though these proceedings may be based principally or exclusively on alleged misconduct which would be subject to prosecution before a court-martial. Thus, it would be conceivable for an accused to be acquitted in a trial by a court-martial and then administratively discharged under other than honorable conditions for the same misconduct. Similarly, there appears to be no affirmative statutory prohibition against repeated administrative discharge hearings concerning basically the same allegations of misconduct or unfitness.

Although there is no desire to preclude the armed services from administratively discharging a member of the Armed Forces under honorable conditions for the convenience of the Government or from having more than one hearing with respect to fitness of a serviceman to remain in the Armed Forces if he is involved in additional incidents which demonstrate his unfitness, the armed services should not be free to harass a member of the armed services by repeated trials or hearings of the same issue. Indeed, such harassment does not conform to due process concepts or to the spirit of the double jeopardy prohibition.

To implement these proposals, it would seem desirable to:

(a) Add to article 44 a prohibition against administratively discharging a member of the Armed Forces under other than honorable conditions by reason of alleged misconduct for which he has been tried and acquitted by court-martial.

(b) Either add to article 44 of the Uniform Code, or add as a separate section, a prohibition against allowing an administrative board to make any findings or recommendations that shall be less favorable to the respondent member of the Armed Forces than any findings or recommendations that have already been made concerning the same matter by some other board which had jurisdiction thereof in a proceeding wherein he was a party.

S. 2008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 47 of title 10, United States Code, is amended by adding after section 835 a new section as follows:

"§ 836. Art. 36. Pretrial conference

"(a) The law officer of any general court-martial case shall have authority, in accordance with such rules and regulations as may be prescribed by the President, to conduct a pretrial conference with respect to such case. The law officer shall have authority at any such pretrial conference to entertain and make final disposition of any motion or interlocutory question with respect to which he would have authority to make final disposition of during trial. The law officer shall also have authority to entertain and accept a plea of guilty from an accused, and any such plea accepted by the law officer shall, subject to the other provisions of this title, be accepted by the court as if such plea had been made in open court. The provisions of section 845 (art. 45) shall apply with respect to a plea of guilty made by an accused at a pretrial conference to the same extent such provisions apply to a plea of guilty made in open court. Pretrial conferences may also be utilized for the purpose of—

"(1) simplifying the issues;

"(2) receiving stipulations; and

"(3) considering such other matters as may aid in the fair and speedy disposition of the case.

There shall be present at any pretrial conference the law officer, the trial counsel, the defense counsel, the accused, and a reporter; members of the court shall not be present at pretrial conferences. A record of all proceedings at a pretrial conference shall be taken by the reporter. Any ruling made by the law officer at a pretrial conference may be changed by him at any time during the trial.

"(b) Any motion to suppress evidence shall be made at a pretrial conference (if one is held) unless opportunity therefor did not exist or the accused was not aware of the grounds for the motion, but the law officer in his discretion may entertain the motion at the trial."

(b) The table of sections at the beginning of subchapter VI of chapter 47 of such title is amended by adding at the end thereof the following:

"836. 36. Pretrial conference."

SEC. 2. Section 854(a) (article 54(a)) of title 10, United States Code, is amended by adding at the end thereof the following: "The record of any pretrial conference conducted in connection with any general court-martial shall be made a part of the record of such court-martial and shall be authenticated by the signature of the law officer. If the record of the pretrial conference cannot be authenticated by the law officer, by reason of his death, disability, or absence, it shall be signed by the trial counsel."

The memorandum accompanying Senate bill 2008 is as follows:

PROPOSED BILL TO BETTER PRESERVE THE CONSTITUTIONAL RIGHT OF SERVICE PERSONNEL TO A SPEEDY AND FAIR TRIAL

Background memorandum: In a civil case in a Federal district court extensive resort is had to pretrial hearings whereby the attention of the parties and of the court is focused on the real issues of the case and irrelevancies are eliminated. There have been proposals to introduce somewhat similar procedures for criminal cases in the Federal district courts, although any such proposals must be carefully prepared to avoid interfering with the defendant's right to remain silent and not provide any evidence which might be used by the Government to convict him. Even so, extensive hearings may take place in a Federal district court before a jury is selected and impaneled. For instance, motions to suppress evidence obtained by an unreasonable search and seizure or by wiretapping usually are made before the trial. Furthermore, a plea of guilty may be received without impaneling a jury.

On the other hand, in a general court-martial the law officer, who corresponds to the Federal trial judge, has no authority to conduct any pretrial proceedings. Thus, all the members of the court-martial must be assembled at the beginning of the trial before any proceedings can be conducted. Then these members may be required to remain idly at hand for hours while the law officer disposes of various motions and other matters of law. Instead of hearing motions to suppress evidence before the trial begins, the law officer must interrupt the trial to rule on objections to admissibility. Even if the accused intends to plead guilty, the law officer cannot receive this plea until all the

formalities of assembling the court members have been complied with.

The necessity for assembling a number of officers to serve as court members will sometimes delay the commencement of the trial; and this, in turn, will tend to impair the accused's right to a speedy trial. On the other hand, once the court-martial members are convened, the law officer may be very reluctant to grant a motion for a continuance—however justifiable the grounds—because of the necessity in that event to reassemble the court members at some later time. Accordingly, the accused may be forced to trial at a time when his defense counsel is not completely prepared to proceed—with the resulting ill effects on the fairness of the trial.

With this in mind, it seems desirable from the standpoint of accused service personnel, as well as from the standpoint of the armed services themselves, to authorize a procedure for pretrial hearings in a case. Indeed, the Department of Defense has previously drafted proposed legislation along these very lines, which might be consulted in drafting a bill.

To implement this proposal it would seem appropriate to:

(a) Amend article 39, 10 U.S.C. 839, to authorize the law officer of a court-martial to hold proceedings outside the presence of the members of a court-martial, and either before or after the members of the court-martial have been convened or assembled, during which proceedings the law officer shall have the authority to rule on any interlocutory questions (see art. 51 (b)) which he would otherwise be empowered to decide, including any motions to dismiss the charges, motions, or requests for continuances, motions to require further investigation under article 32, objections to the competency of the accused to stand trial, motions to suppress any evidence, and other motions for appropriate relief. At these same sessions the law officer of the court-martial should also have the authority to receive any appropriate stipulations. (This is phrased here in terms of the law officer of "a court-martial." At the present time only a general court-martial has a law officer; but a bill may later be introduced either to authorize or to require a law officer for special courts-martial.)

(b) Amend article 39 and perhaps article 54 to make specific the requirement that a record be made of the proceedings conducted outside of the presence of the court-martial members, including pretrial proceedings, just as a record would be made of the proceedings at the trial.

(c) Amend articles 39, 45, 51, and 52 to authorize a law officer of a court-martial (law officer of a general court-martial as the Uniform Code now stands concerning the structure of a special court-martial) to receive a plea of guilty, after suitable determination that it has not been made improvidently or through lack of understanding of the plea's meaning and effect, and to make and enter a finding of guilty thereon without any necessity or requirement that the members of the court-martial be convened or assembled.

(d) Authorize the President to promulgate reasonable regulations concerning any proceedings outside of the presence of the members of the court-martial. (In this connection it might be desirable specifically to empower the President to promulgate regulations requiring that generally motions to suppress evidence should be made prior to trial if a pretrial hearing is held to consider any motions to suppress and if the defense counsel had available at that time and knew of the facts on which he subsequently bases his motion to suppress. This might conform military procedure concerning admissibility of illegally seized evidence to the practice governing in the Federal district courts.)

S. 2009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 801(10) (article 1(10)) of title 10, United States Code, is amended to read as follows:

"(10) 'Law officer' means an official of a general or special court-martial detailed in accordance with section 826 of this title (article 26)."

SEC. 2. Section 816 (article 16) of title 10, United States Code, is amended to read as follows:

"(a) The three kinds of courts-martial in each of the armed forces are—

"(1) general courts-martial;

"(2) special courts-martial; and

"(3) summary courts-martial.

"(b) A general court-martial consists of a law officer and not less than five members, except in any case in which the accused waives trial by court members under section 855 of this title (article 55), in which case the court consists of a law officer only.

"(c) A special court-martial consists of not less than three members, or a law officer and not less than three members, or, in any case in which a law officer has been detailed to the case and the accused waives trial by court members under section 855 of this title (article 55), the court consists of a law officer only.

"(d) A summary court-martial consists of one commissioned officer."

SEC. 3. The last sentence of section 819 (article 19) of title 10, United States Code, is amended to read as follows: "A bad conduct discharge may not be adjudged in any case tried by special court-martial unless (1) a complete record of the proceedings and testimony before the court has been made, and (2) except in time of war, a law officer was detailed to such case and was present during all trial proceedings."

SEC. 4. (a) Subsection (a) of section 826 (article 26) of title 10, United States Code, is amended to read as follows:

"(a) The authority convening a general court-martial shall, and the authority convening a special court-martial may, detail as law officer thereof a commissioned officer who is a member of the bar of a Federal court or of the highest court of a State and who is certified to be qualified for such duty by the Judge Advocate General of the armed force of which he is a member. Any officer certified as qualified to serve as law officer of a general court-martial shall be certified as qualified to serve as law officer of a special court-martial. No person is eligible to act as law officer in a case if he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case."

(b) The catch line of section 826 (article 26) of title 10, United States Code, is amended to read as follows:

"§ 826. Article 26. Law officers of general and special courts-martial.".

(c) The table of sections at the beginning of subchapter V of chapter 47 of title 10, United States Code, is amended by striking out

"826. 26. Law officer of a general court-martial."

and inserting in lieu thereof

"826. 26. Law officers of general and special courts-martial."

SEC. 5. (a) Subsection (a) of section 829 (article 29) of title 10, United States Code, is amended by striking out "No" at the beginning of such subsection and inserting in lieu thereof "Except in any case tried by a law officer without court members, pursuant to section 855 of this title (article 55), no".

(b) The first sentence of subsection (b) of such section is amended to read as follows: "Except in any case tried by a law officer without court members pursuant to section 855 of this title (article 55), a general court-martial trial may not proceed if the court is reduced below five members unless the convening authority details new members sufficient in number to provide not less than five members."

(c) Subsection (c) of such section is amended to read as follows:

"(a) Except in any case tried by a law officer without court members pursuant to section 855 of this title (article 55), a special court-martial trial may not proceed if the court is reduced below three members unless the convening authority details new members sufficient in number to provide not less than three members. When the new members have been sworn, the trial shall proceed as if no evidence had previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the law officer, if any, the accused, and counsel."

(d) Such section is further amended by adding at the end thereof a new subsection as follows:

"(d) In any case being tried by a law officer only pursuant to section 855 of this title (article 55), and the law officer is unable to proceed with the trial because of physical disability, as the result of challenge, or for other good cause, the trial shall proceed, subject to the provisions of section 55(d) of this title (article 55(d)), after the detail of a new law officer as if no evidence had previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read in court in the presence of the new law officer, the accused, and counsel."

SEC. 6. The last sentence of section 838(b) (article 38(b)) of title 10, United States Code, is amended by striking out "president of the court" and inserting in lieu thereof "law officer or by the president of a court-martial without a law officer".

SEC. 7. Section 839 (article 39) of title 10, United States Code, is amended to read as follows:

"§ 839. Article 39. Sessions

"When the members of a court-martial deliberate or vote, only the members may be present. After the members of a court-martial which includes a law officer and members have finally voted on the findings, the president of the court may request the law officer and the reporter, if any, to appear before the members to put the findings in proper form, and these proceedings shall be on the record. All other proceedings, including any other consultation of the members of the court with counsel or the law officer, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in cases in which law officers have been detailed to the court, the law officer."

SEC. 8. Section 841(a) (article 41(a)) of title 10, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The law officer and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court."; and

(2) by striking out "court" in the second sentence and inserting in lieu thereof "law officer or, if none, the court".

SEC. 9 (a) The first sentence of subsection (a) of section 851 (article 51 (a)) of title 10, United States Code, is amended to read as follows: "Voting by members of a general or special court-martial, on the findings and on the sentence, and by members of a court-martial without a law officer upon questions of challenge, shall be by secret written ballot."

(b) The first and second sentences of subsection (b) of such section are amended to read as follows: "The law officer and, except for questions of challenge, the president of

a court-martial without a law officer shall rule upon all questions of law and all interlocutory questions arising during the proceedings. Any such ruling made by the law officer upon any question of law or any interlocutory question other than the mental responsibility of the accused, or by the president of a court-martial without a law officer upon any question of law other than a motion for a finding of not guilty, is final and constitutes the ruling of the court."

(c) Subsection (c) of such section is amended by striking out "the law officer of a general court-martial and the president of a special court-martial" and inserting in lieu thereof "the law officer of a court-martial, or the president of a special court-martial without a law officer,".

(d) Such section is further amended by adding at the end thereof a new subsection as follows:

"(d) Subsections (a), (b), and (c) of this section do not apply with respect to any court-martial case tried by a law officer only pursuant to section 855 of this title (article 55)."

SEC. 10. Section 852 (article 52) of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(d) The foregoing provisions of this section, insofar as they relate to the number of votes required by members of a court-martial, shall not apply with respect to the trial of an accused who has waived trial by members of the court pursuant to section 855 of this title (article 55) and is tried by a law officer."

SEC. 11. Section 854(a) (article 54(a)) of title 10, United States Code, is amended to read as follows:

"(a) Each general court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the law officer. If the record cannot be authenticated by the law officer by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or a member."

SEC. 12. (a) Chapter 47 of title 10, United States Code, is amended by adding after section 854 (art. 54) a new section as follows:

"§ 855. Article 55. Waiver of accused of trial by court members.

"(a) In accordance with such rules and regulations as the President shall prescribe, any accused who is to be tried by a general court-martial, or by a special court-martial to which a law officer has been detailed, shall be given the opportunity to waive his right to a trial by the members of the court and elect instead to be tried by the law officer of such court. The accused may exercise such waiver by notifying the law officer of the court either before or after the convening of the court. If the waiver is made prior to the convening of the court, the members of the court shall not be present at any time during the trial; if the accused wishes to exercise such waiver after the court has been convened he may do so only with the consent of the trial counsel. If the trial counsel consents to the waiver the law officer shall forthwith excuse the members of the court from further participation in the trial.

"(b) In any court-martial case tried before a law officer pursuant to a waiver authorized under subsection (a) of this section, the law officer shall have authority to entertain and accept a plea of guilty from the accused, subject to the provisions of section 845 of this title (art. 45). In any court-martial case tried by a law officer pursuant to a waiver under subsection (a) of this section, the law officer shall decide all questions of fact and law, make final rulings on all interlocutory questions and motions, make all findings with respect to guilt, and impose any sentence not prohibited by this chapter.

"(c) No waiver authorized by subsection (a) of this section shall be permitted by the law officer unless the accused prior to exercising his right to waiver, has been advised by counsel with qualifications not less than those prescribed in section 827(b) of this title (article 827(b)) regarding such waiver.

"(d) A waiver by an accused of trial by court members may be withdrawn by him if, subsequent to exercising such waiver, a law officer different from the one to whom the waiver was submitted is detailed to act as law officer at the trial of the accused."

(b) The table of sections at the beginning of subchapter VII is amended by adding at the end thereof the following:

"855. 55. Waiver by accused of trial by court members.

SEC. 13. The amendments made by this Act shall become effective on the first day of the tenth month following the month in which enacted.

The memorandum accompanying Senate bill 2009 is as follows:

PROPOSED BILL TO IMPLEMENT THE CONSTITUTIONAL RIGHT OF SERVICEMEN TO DUE PROCESS IN TRIALS BY COURT-MARTIAL

Background memorandum: Article III of the Constitution envisages that Federal crimes shall be prosecuted in district courts presided over by an independent judge who rules on all matters of law. Courts-martial, on the other hand, as Justice Black emphasized in *Toth* v. *Quarles*, 350 U.S. 11, are not presided over by a Federal judge. Although Congress has required in article 26 of the Uniform Code of Military Justice that each general court-martial have a law officer, who must be a qualified attorney, who sits apart from the court-martial members, and who does not participate with them in ruling on issues of fact, there is no provision for any lawyer to preside over special courts-martial. Yet a special court-martial is authorized by article 19 of the Uniform Code of Military Justice, 10 U.S.C. 819, to impose a sentence to a bad conduct discharge—a sentence which, according to qualified observers, creates considerable stigma for the recipient. Although the Army does not allow its special courts to impose bad conduct discharges, this is currently authorized by the Air Force and the Navy. Some records of trial indicate that the proceedings in which these discharges are imposed occasionally are replete with legal error and that the constitutional rights of the serviceman may be violated due to the absence of an experienced attorney to preside over the proceedings. In the Navy legally trained counsel seldom are provided to represent the parties, and so the special court-martial may impose a bad conduct discharge in a proceeding where no experienced attorney is present to assure that the accused's rights are protected. In Air Force special courts-martial legally trained counsel are generally provided for the Government and the accused; however, there is no impartial law officer present to advise the court members as to what is the correct rule of law and to assist them in choosing between the sometimes drastically divergent arguments of counsel for the parties.

In light of the severe consequences of a sentence to bad conduct discharge, it seems appropriate to require that a law officer be provided for a special court-martial proceeding in order for the court-martial to have the authority to adjudge a bad conduct discharge. While it may not be practicable to insist that the law officer of this special court-martial have the same professional qualifications that are now customary for the law officers of general courts-martial, the proposed law officer of the special court should have the qualifications required of counsel under article 27(b)(1) and should also be certified as qualified for such duty by the Judge Advocate General of the armed force of which he is a member. At present, the Uniform Code does not envisage a special court-martial with a law officer or "military judge." Therefore, it will be necessary to amend the code to provide for this alternative. While it may not be practicable to require that all special courts-martial have a law officer, it does seem desirable to authorize a special court-martial with a law officer to adjudicate any case that might be referred to it and whether or not a bad conduct discharge would be authorized for the offenses charged. Moreover, since waiver of jury is well recognized in the Federal district courts and has been held constitutional, there is no reason to forbid a similar waiver by the accused of trial by the members of the special court-martial (who correspond to a civilian jury). Of course, even in a general court-martial, where a law officer is presently required by statute, the sentencing is done by the court members, rather than by the law officer; and in this respect the military practice differs from that in the Federal district courts, where the judge does the sentencing. Even so, no objection can be seen to allowing the accused to consent to the law officer's finding the facts, imposing the sentence, or both, so long as this consent is given in open court. Certainly the armed services could not object since—if the law officer has been properly certified by the Judge Advocate General as competent to perform his duties—he should be able to make correct findings and impose an appropriate sentence—or, at the very least, he should be as able to do so as would be the members of the court-martial.

To implement these proposals it would appear desirable to:

(a) Amend articles 16(b), 19, 39, 41, and 51 to provide that a special court-martial may be appointed which—in addition to the members required under article 16—shall have a law officer and that this law officer shall have all the authority to conduct the proceedings of a special court-martial to which he has been appointed as the law officer of a general court-martial would have under the provisions of article 51(b) (which prohibits him from consulting with the court members or voting with them) and, in addition to the qualifications required by article 27(b)(1), shall have been certified as competent to perform the duties of a special court-martial law officer by the Judge Advocate General of the armed force of which he is a member. Certification as the law officer of a general court-martial would include certification as law officer of a special court-martial.

(b) Amend article 19 of the Uniform Code, 10 U.S.C. 819, to provide that, except in time of war, a bad conduct discharge shall not be adjudged by a special court-martial unless that special court-martial shall have been provided with a law officer.

(c) Amend articles 39, 51, and 52 to authorize the accused, after having been provided with counsel who is qualified under the provisions of article 27(b), to consent that any findings shall be made, or any sentence imposed, or both, by the law officer of the special court-martial, without any necessity for either the concurrence or the presence of the court-martial members. At any time prior to the convening of the court, the accused shall have an absolute right to waive trial by the court members as to findings, or sentence, or both. However, after the court-martial has convened, such waiver shall only be effective with the consent of the trial counsel (who represents the Government). No waiver of trial by the court members shall be binding in the event there is a change with respect to the law officer who has been identified to the accused and his counsel as the one who will conduct the case. (This last provision is designed to avoid any switching of law officers after the accused has committed himself in reliance on the information as to who will be the law officer.)

S. 2010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 867 (article 67) of title 10, United States Code, is amended by—

(1) striking out "all cases" at the beginning of clauses (1), (2), and (3), and inserting in lieu thereof "all court-martial cases";

(2) striking out "and" at the end of clause (2);

(3) striking out the period at the end of clause (3), and inserting in lieu thereof a semicolon and the word "and"; and

(4) adding after clause (3) a new clause as follows:

"(4) all cases reviewed by a board established under section 1552 of this title (correction of military records) or under section 1553 of this title (review of discharges and dismissals) which the Judge Advocate General orders sent to the Court of Military Appeals for review, or in which, upon petition of the applicant and on good cause shown, the Court of Military Appeals has granted a review."

(b) Subsection (c) of such section is amended (1) by inserting "in a court-martial case" immediately after "The accused", and (2) by adding at the end thereof the following: "The applicant in any case reviewed by a board referred to in subsection (c)(4) of this section has 30 days from the time he is notified by the board of the decision in his case to petition the Court of Military Appeals for review. The court shall act upon such a petition within 60 days of the receipt thereof."

(c) Subsection (d) of such section is amended by (1) striking out the word "case" in the first, second, and third sentences and inserting in lieu thereof "court-martial case", and (2) inserting after the third sentence thereof the following new sentences: "In any case referred to in subsection (b)(4) of this section which the Judge Advocate General orders sent to the Court of Military Appeals for review, the court shall take action only with respect to the issues raised by the Judge Advocate General, and in any such case reviewed upon petition of the applicant, the court shall take action only with respect to the issues specified in the grant of review."

(d) The first sentence of subsection (e) of such section is amended by striking out "sentence," and inserting in lieu thereof "sentence of a court-martial case,".

(e) The first sentence of subsection (f) of such section is amended by striking out "case," and inserting in lieu thereof "court-martial case,".

(f) Such section is further amended by redesigning subsection (g) as subsection (h) and adding after subsection (f) the following new subsection:

"(g) After it has acted on any case referred to in subsection (a)(4) of this section, the Court of Military Appeals may, in cases sent to it by the Judge Advocate General, direct the Judge Advocate General to return the record to the appropriate board for further consideration or action in accordance with the decision of the court, or may, in cases appealed by an applicant, return the record directly to the appropriate board for further consideration or action in accordance with the decision of the court. The Court of Military Appeals shall have exclusive jurisdiction with respect to the review of cases brought before any board referred to in subsection (b)(4) of this section."

SEC. 2. (a) Subsection (c) of section 870 (article 70) of title 10, United States Code, is amended by inserting "in a court-martial case" immediately after "shall represent the accused".

(b) Subsection (d) of such section is amended by inserting "in a court-martial case" immediately after "The accused".

(c) Such section is further amended by adding at the end thereof the following new subsections:

"(f) Appellate defense counsel shall also represent before the Court of Military Appeals an applicant whose case is before the court pursuant to the provisions of section 867(b)(4) of this title (article 67(b)(4))—

"(1) when he is requested to do so by the applicant;

"(2) when the civilian or military board concerned is represented by counsel; or

"(3) when the Judge Advocate General has sent such a case to the Court of Military Appeals.

An applicant has the right to be represented before the Court of Military Appeals by civilian counsel if provided by him.

"(g) In the case of a board established pursuant to section 1552 or 1553, the Judge Advocate General shall detail appellate counsel to represent the board before the Court of Military Appeals whenever the board so requests. In the case of a civilian board established pursuant to section 1552 of this title, such board may be represented before the Court of Military Appeals by its own counsel if it so elects."

The memorandum accompanying Senate bill 2010 is as follows:

PROPOSED BILL TO IMPLEMENT THE CONSTITUTIONAL RIGHT OF SERVICE PERSONNEL TO DUE PROCESS

Background memorandum: Congress has established for each armed service a discharge review board, composed solely of service personnel and authorized to review certain discharges from the armed services, and a board for the correction of records, composed of civilian personnel and authorized to review discharges and other matters. In some instances applications for relief submitted to either of these boards may present complex legal issues and involve the constitutional rights of the applicant. Apparently, in some cases a legal issue will be referred by a board for consideration to the Office of the Judge Advocate General of the appropriate armed service. In the event of denial of the requested relief, the applicant may sue for back pay and allowances in the Court of Claims or may seek relief in an appropriate district court. However, the initiation of such court action may be a troublesome and cumbersome process.

At the present time, the jurisdiction of the Court of Military Appeals, as defined in article 67 of the Uniform Code of Military Justice, 10 U.S.C. 867, extends only to cases tried by court-martial. However, this court would seem qualified in terms of experience and personnel to review legal issues that might arise in connection with administrative discharges or other administrative proceedings affecting the rights or status of members of the Armed Forces. Indeed, in some instances the administrative action may be predicated on alleged misconduct, which would be cognizable under the Uniform Code of Military Justice. In order to provide a single convenient forum to review legal issues arising in connection with applications to the discharge review boards and the correction boards and in that connection to protect the constitutional rights of the serviceman, it would seem desirable to amend article 67 of the Uniform Code and extend the jurisdiction of the Court of Military Appeals to legal issues involved in matters pending before the discharge review boards or the correction boards. The review by the court would be solely on matters of law and would not embrace review of factual issues. Just as the Court of Military Appeals can obtain jurisdiction of a court-martial case under article 67 of the Uniform Code by an accused's petition for review or by a certification from the Judge Advocate General of the appropriate armed service, the Court of Military Appeals could be petitioned by an applicant to the discharge review board or the correction board to grant review of any constitutional or other legal issue present in his case, or the Judge Advocate General of the respective service or general counsel of the appropriate department, could certify any legal issues to the court for adjudication. The court would specify rules of procedure to govern such petitions for review or certified issues; and it would be provided by statute that the Court of Military Appeals would be the exclusive forum for the consideration thereof. There would be no mandatory jurisdiction, and accordingly the court would grant review only "on good cause shown"—the same criterion applied by article 67(b)(3) to petitions for review in court-martial cases. In the event a petition for review was granted or a certificate for review was submitted, appellate counsel would be provided both for the Government and the accused, just as is authorized under article 70 of the Uniform Code for courts-martial. Moreover, the court would be authorized to direct that appellate defense counsel be assigned to assist in supplementing a petition for review where it considered that in the interests of justice such aid should be provided the applicant.

Possibly some amendment should be considered in the Judicial Code, title 28, with a view to making it clear that the Court of Military Appeals would have exclusive jurisdiction of all legal issues arising in connection with administrative action proposed or taken by the armed services and involving members of the Armed Forces. In this way, the authority of district courts to enjoin a contemplated administrative discharge or other administrative action would be negated, and the member of the armed services would be remanded to the discharge review board, the correction board, and the Court of Military Appeals for his relief. The relief available there, of course, would be retroactive in nature, with a view to repairing any harm that might have resulted to the serviceman from the action taken.

To implement this proposal, it would seem necessary to:

(a) Expand article 67 of the Uniform Code to expand the jurisdiction of the Court of Military Appeals and to provide a procedure for bringing legal issues to that court from either the discharge review boards and the boards for the correction of military (or naval) records.

(b) Amend article 70 to provide for appellate counsel to represent the parties with respect to legal issues brought before the Court of Military Appeals pursuant to the provisions of article 67 as expanded.

(c) Amend the statutory provisions establishing discharge review boards (10 U.S.C. 1553); and correction boards (10 U.S.C. 1552) to correspond with article 67 as amended.

(d) Amend title 28, of the Judicial Code, to any extent necessary to authorize the Court of Military Appeals to be the exclusive forum for considering the legality of any administrative action proposed or taken by the armed services affecting members of the Armed Forces. (Perhaps the wording of art. 67 could adequately handle this matter without the necessity to amend the Judicial Code).

S. 2011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 47 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"941. Article 141. Administrative separation or discharge; board proceedings

"(a) No person, except in time of war, shall be separated or discharged from the Armed Forces under conditions other than honorable unless (1) such person has been

accorded a hearing in accordance with the provisions of this section before a board of officers convened for the specific purpose of determining whether such person should be separated or discharged under such conditions, and (2) the board, on the basis of the testimony and evidence presented at such hearing has recommended that such person be so separated or discharged. The Secretary concerned shall have authority to promulgate rules and regulations establishing such boards and prescribing the procedures to be followed.

"(b) Any board convened for the purpose of determining whether any person should be separated or discharged from the Armed Forces under conditions other than honorable shall have detailed to it by the convening authority of such board a commissioned officer who shall serve as law officer of the board. The law officer of any such board shall have been certified pursuant to section 826 of this title (article 26), by the Judge Advocate General of the Armed Force of which such officer is a member, as competent to act as law officer of a general court-martial. The function of the law officer shall be to preside over the proceedings of the board, rule on all legal questions and on all motions made before the board, and to insure that the board proceedings are conducted in a fair and impartial manner. The law officer shall not be a member of the board. When the board deliberates or votes only the members of the board may be present.

"(c) Any person directed to appear as respondent before a board described in subsection (a) of this section shall be informed, prior to appearing before the board, of the nature and purpose of the hearing to be conducted by the board, and shall be notified of his right to be represented by counsel appointed by the convening authority, or by civilian counsel at his own expense. Counsel appointed by the convening authority shall have qualifications not less than those prescribed in section 27(b) of this section (article 27(b)).

"(d) The right to a hearing as provided in subsection (a) of this section may be waived by any person if, prior to exercising such waiver, he has consulted with appointed counsel or civilian counsel regarding the advisability of such waiver."

SEC. 2. The table of sections at the beginning of subchapter XI of chapter 47 of title 10, United States Code, is amended by adding at the end thereof the following:

"941. 141. Administrative separation or discharge; board proceedings."

The memorandum accompanying Senate bill 2011 is as follows:

PROPOSED BILL TO PROTECT THE CONSTITUTIONAL RIGHTS OF SERVICE PERSONNEL TO RECEIVE DUE PROCESS BEFORE BEING DISCHARGED OR SEPARATED UNDER OTHER THAN HONORABLE CONDITIONS

Background memorandum: The Subcommittee on Constitutional Rights hearings conducted in 1962 established that an administrative discharge under other than honorable conditions issued pursuant to the recommendations of a military board has almost the same effect on the recipient as the punitive discharge imposed by sentence of a court-martial. In either instance he may lose his veterans' benefits; in either instance he is stigmatized in the eyes of the community. Some of the most immutable effects of a punitive discharge are reserved for cases which have been heard by a general court-martial (see 38 U.S.C. 693g) which is presided over by a qualified law officer. Nonetheless, the consequences of any discharge under other than honorable conditions are clearly serious enough with respect to the recipient's life, liberty, or property to entitle him to due process.

Unfortunately, the military boards which recommend administrative discharges under other than honorable conditions—like special courts-martial, which can adjudge a sentence to a bad conduct discharge—often find it difficult to adhere to standards of "due process" because of the absence of competent, independent, and impartial legal advice. While some of these boards may have legal advisers, their status and function is often ill defined, as the Subcommittee on Constitutional Rights learned from an examination of current military regulations in this field. Certainly, this legal adviser has not been accorded the status and responsibility of a judge; and, without his having such status, it is doubtful that he can adequately insure adherence to the due process to which the serviceman is entitled under the U.S. Constitution.

Accordingly, it seems highly desirable to require that a board empowered to recommend a discharge or separation under other than honorable conditions, or to make findings on which such a discharge or separation might be based, must have a law officer with the qualifications required of the law officer of a general court-martial under article 26 of the Uniform Code. Just as in a general court-martial, the law officer would not retire to deliberate or vote with the board members (arts. 26(b), 39); he would rule upon interlocutory matters (art. 51(b)); and he would instruct the board members concerning any questions of law reasonably raised by the evidence before them (art. 51(c)). This law officer would also preside over the proceedings of the board.

To implement these recommendations, it would be necessary: (a) to enact a separate article of the Uniform Code which would provide that, except in time of war, no member of the Armed Forces shall be discharged or separated under other than honorable conditions unless he has either received a hearing before a board of officers presided over by a qualified law officer, certified as qualified for such duty (art. 26(a)) and such a board had made suitable findings and recommendations, or unless he had waived the right to such a hearing after having had the opportunity to consult with an attorney having the legal qualifications required for counsel of a general court-martial under article 27(b).

(b) As part of the same article or section provide that the law officer presiding over the board proceedings should not consult with board members, except in the presence of the respondent and his counsel nor vote with the board members and should rule on interlocutory questions and instruct the board members on any legal issues or matters of law (art. 51).

S. 2012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 846 (article 46) of title 10, United States Code, is amended to read as follows:

"Under such rules and regulations as the President may prescribe, the following shall have authority to compel witnesses to appear and testify and to compel the production of other evidence—

"(1) courts-martial;

"(2) military commissions;

"(3) courts of inquiry;

"(4) investigating officers conducting investigations pursuant to section 832 of this title (article 32);

"(5) military boards appointed for the purpose of making findings or recommendation concerning the type or kind of administrative separation or discharge any member of the armed forces should receive;

"(6) boards established pursuant to section 1552 (correction of military records) and section 1553 (review of discharges and dismissals) of this title; and

"(7) any other military courts or boards when authorized to exercise subpena power by the President.

Process issued under authority of this section shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue and shall run to any part of the United States, or the territories, Commonwealths, and possessions. In court-martial cases the trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the President may prescribe."

SEC. 2. Subsection (a)(1) of section 847 (article 47) of title 10, United States Code, is amended to read as follows:

"(1) has been duly subpenaed to appear as a witness before any body or officer described in section 846 of this title (article 46), or before any military or civil officer designated to take a deposition to be read in evidence before any such body or officer;".

SEC. 3. Subsection (a) of section 849 (article 49(a)) of title 10, United States Code, is amended by inserting immediately after "unless" the following: "the law officer or court-martial without a law officer hearing the case, or if the case is not being heard.".

The memorandum accompanying Senate bill 2012 is as follows:

PROPOSED BILL TO IMPLEMENT THE CONSTITUTIONAL RIGHTS OF SERVICE PERSONNEL TO CONFRONTATION AND COMPULSORY PROCESS

Background memorandum: The sixth amendment requires that in all criminal prosecutions the accused shall "be confronted with the witnesses against him" and "have compulsory process for obtaining witnesses in his favor." The issuance of subpenas is, of course, the means by which prospective witnesses are compelled to come to court and testify either for the Government or for the defense; and without the subpena power it would be difficult in many instances to obtain necessary testimony.

Article 47 of the Uniform Code of Military Justice, which is implemented in paragraph 115 of the 1951 Manual for Courts-Martial, provides for the subpenaing of witnesses to appear before "any court-martial, military commission, court of inquiry, or any other military court or board, or before any military or civil officer designated to take a deposition to be read in evidence before such court, commission, or board." However, there is no authority for the subpenaing of witnesses to testify before an investigating officer during the pretrial investigation of serious offenses required by article 32 of the Uniform Code. Therefore, if it is necessary to obtain testimony from civilian witnesses prior to trial in order to determine whether the Government has a case against the accused and if the civilians will not appear voluntarily, then the needed testimony can only be obtained through the rather cumbersome procedure of convening a court of inquiry. Also, during the 1962 hearings of the Subcommittee on Constitutional Rights, it was testified that the phrase "any other military court or board," as used in article 47, had not been interpreted to include administrative discharge or separation boards, even in cases where such boards might be considering specific allegations of misconduct.

Consequently, even though the discharge board may be making a decision which will affect the entire future of the respondent serviceman and even though the correctness of this decision may hinge on the testimony of civilians who are reluctant to testify and undergo cross-examination, the board has no process available to compel their appearance. Similarly, such a board has no authority to order civilian witnesses to appear for the taking of depositions. Furthermore, neither the Discharge Review Boards (38 U.S.C. 693h) nor the Boards for the Correction of Military (or Naval) Records (5

U.S.C. 191a) have authority to compel civilian witnesses to appear and testify. Accordingly, in some instances a member of the Armed Forces may be discharged or separated under other than honorable conditions for alleged misconduct without having the opportunity to confront and cross-examine his accuser or to obtain the testimony of certain witnesses whose presence he may desire.

If the subpena power is to be expanded, two issues are immediately encountered: (1) How much of an expansion is feasible? and (2) What procedural mechanism should be used for such an expansion? With respect to the first issue, it should be noted that making subpenas available without any limitation whatsoever in administrative discharge proceedings might make it possible for the respondent to block prompt action by unreasonable requests for the presence of witnesses. To avoid this possibility, the subpena power should not be made available simply upon request of the respondent without some showing of necessity for the witness' presence; and the board should have the discretion to utilize depositions of witnesses if they reside a considerable distance from the place where the board will convene. In fact, the circumstances under which subpenas might be issued by military boards or by investigating officers acting under article 32 of the Uniform Code should be left for treatment by executive order promulgated as an amendment to paragraph 115 of the present Manual for Courts-Martial.

With respect to the mechanics to be used in extending the subpena power to military boards and to officers conducting investigations under article 32, there exists some uncertainty in Federal administrative law concerning the extent to which administrative agencies and similar bodies can issue valid and enforcible subpenas without enlisting the aid of a Federal district court. On the other hand, no question has ever been raised concerning the power of courts-martial and military courts of inquiry to issue valid subpenas, disobedience of which may be punished by prosecution in a Federal district court. Thus, instead of requiring that the military board or the article 32 investigating officer go into Federal court to request the issuance of a subpena by that court, it would probably be permissible simply to amend articles 46 and 47 of the Uniform Code to authorize the issuance of subpenas by the board or investigator. Any legislation should be simply of an enabling nature.

To implement these proposals it would seem appropriate to:

1. Amend article 46 to authorize an investigating officer duly appointed under article 32 to issue subpenas for the attendance of witnesses before him incident to his investigation in the performance of his duties under article 32, or for the attendance of witnesses before any military or civil officer who has been designated to take a deposition to be used in the investigation performed pursuant to article 32, and under regulations to be prescribed by the President.

2. Amend article 46 to authorize a military discharge or separation board, or any military or naval board which is determining whether and under what circumstances to discharge or separate a member of the Armed Forces, as well as the Discharge Review Board of each Department and the Boards for the Correction of Military (and Naval) Records, to issue subpenas requiring the attendance of witnesses before the boards incident to the performance of their duties, or requiring the attendance of witnesses before any military or civil officer designated to take a deposition to be read in evidence before such board.

3. Amend article 47, which provides for punishment of the witness who fails to appear, to include failure to appear before the investigating officer, the discharge board, the Discharge Review Board, the Correction Board, or before any military or civil officer designated to take a deposition to be used or read by such officer or board.

4. Amend article 49 to allow the taking and use of depositions in connection with proceedings of military discharge and separation boards, Discharge Review Boards, Correction Boards, or any other military or naval boards, subject to regulations to be prescribed by the President (this is to be merely permissive legislation to authorize clearly the use of depositions in connection with military administrative proceedings, but not to require the use of depositions).

5. In connection with all the previous amendments, clarify that the President shall prescribe the circumstances under which subpenas shall be issued for witnesses to appear and testify including the persons who may request issuance of the subpena.

6. Clarify the procedure for the taking of depositions during a trial by amending article 49 as proposed at page 31 of the Court of Military Appeals annual report for 1962.

S. 2013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 866 (article 66) of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(g) No member of a board of review shall be required, or on his own initiative be permitted, to prepare, approve, disapprove, review, or submit, with respect to any other member of the same or another board of review, an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the armed forces, or in determining whether a member of the armed forces should be retained on active duty."

The memorandum accompanying Senate bill 2013 is as follows:

PROPOSED BILL TO PROTECT THE CONSTITUTIONAL RIGHTS OF SERVICE PERSONNEL TO RECEIVE DUE PROCESS AND FAIR AND IMPARTIAL REVIEW OF THEIR CONVICTIONS BY COURT-MARTIAL

Background memorandum: During the hearings it was testified that in Army and Air Force Boards of Review, established under article 66 of the Uniform Code of Military Justice, the chairman of the three-member boards would prepare the efficiency or fitness reports on the two junior members of the board. These reports, in turn, help determine future promotions and assignments for the member reported on. According to several witnesses, this practice would tend to inhibit the junior members in making an independent and impartial evaluation of the cases on which they are acting. In the absence of such an evaluation, the serviceman whose case is being reviewed does not receive the full measure of due process contemplated by the Constitution and by the Uniform Code. The Army has already changed its practices to eliminate this possibility; but the Air Force apparently has not yet done so. In any event it seems desirable to prohibit any such practice in the future.

Accordingly, article 66 of the Uniform Code should be amended to: (a) Prohibit specifically any practice whereby the chairman of any board of review established under that article prepares any efficiency or fitness report or rating with respect to any other member of that board or submits any document that is made a part of, or is contained in, any promotion or selection file with respect to that member, or in any way admonishes, reprimands, or otherwise seeks to control or direct the other members of the board in the performance of their judicial duties.

S. 2014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 803 (article 3) of title 10, United States Code, is amended to read as follows:

"(a) Subject to section 843 of this title (article 43), any person not subject to trial by court-martial who is charged with having committed, while in a status in which he was subject to trial by court-martial, an offense against this chapter punishable by confinement for five years or more, and who, while in such status, was not tried for such offense may be tried upon indictment for such offense—

"(1) in the United States district court for any judicial district in which any act or omission constituting an element of such offense was committed, if such offense was committed in the United States, or

"(2) in the United States district court for the judicial district in which such person is found or into which he is first brought, if such offense was committed outside the United States or on the high seas.

No person may be tried in any district court for any such offense if (1) the offense is one for which such person could not be tried by court-martial without his consent if he were in a status subject to trial by court-martial, or (2) such person has been previously tried in a State court for substantially the same offense. For the purpose of all proceedings for or ancillary to the trial of any person for any such offense in any district court of the United States, such offense shall be considered to be an offense prohibited by and punishable under the provisions of title 18, United States Code."

SEC. 2. The amendments made by the first section of this Act shall be effective with respect to any offense committed on or after the date of enactment of this Act.

The memorandum accompanying Senate bill 2014 is as follows:

PROPOSED BILL TO PROVIDE AN AMERICAN FORUM, SUBJECT TO THE U.S. CONSTITUTION, FOR TRIAL OF SERIOUS OFFENSES BY PERSONS WHO HAVE BEEN SEPARATED FROM THE ARMED SERVICES

Background memorandum: Under the articles of war no American forum existed to prosecute offenses against those articles by a serviceman who was discharged before charges had been preferred against him. As a result, World War II produced several incidents where persons who allegedly had committed serious crimes were immune from trial because they had been discharged and were no longer subject to trial by court-martial and also were not subject to trial in any American civil court. Congress attempted to close this jurisdictional loophole by enacting article 3 of the Uniform Code of Military Justice; but the Supreme Court, in the famous case of *Toth* v. *Quarles,* 350 U.S. 11, held this provision unconstitutional. In light of the Toth case, courts-martial lack jurisdiction to try a serviceman for predischarge violations of the Uniform Code, however serious they may be (unless the ex-serviceman later reenlists); and so frequently there is no American court which can try the accused for his crime. Of course, if the crime was committed overseas in a foreign country and if the accused either has remained there or can be extradited to that country, prosecution may still be possible; but in that event the ex-serviceman is brought to trial in a foreign court, which is not subject to the U.S. Constitution and may not furnish some of the procedural safeguards with which we are familiar.

In light of these circumstances and of the fact that the Supreme Court did not say in the Toth case that jurisdiction could not be granted to prosecute persons like Toth in a Federal civil court, the best solution would appear to be through amendment of article 3 to authorize trial in Federal district courts of ex-servicemen whose crimes were committed while they were in the Armed Forces and who would not otherwise be subject to trial for the offense in a State or Federal court. In this manner the jurisdictional hole can be plugged; but trial can take place in an American tribunal, where every constitutional safeguard will be present. Furthermore, in instances where the alleged crime occurred overseas, there will be considerably less occasion to deliver or extradite the ex-serviceman to a foreign court for trial, since an American court would also have the power to try for the same misconduct. On the other hand, under present laws trial by an American court is impossible; and therefore foreign prosecution is the only alternative to condoning the crime.

The armed services have been interested in the problem and legislation was studied after the Toth decision to help meet the problem created there. (See subcommittee hearings at 852, 910, 946). However, somewhere along the line action apparently has bogged down.

To implement this proposal, it would seem desirable to:

(a) Amend article 3(a) of the Uniform Code to provide that, subject to the provisions of article 43 (which is the statute of limitations), any person charged with having committed, while in a status in which he was subject to the code, an offense against the Uniform Code, which, under the code and the regulations prescribed by the President and in effect at the time of the alleged offense, would be punishable by confinement of 5 years or more and for which that person cannot otherwise be tried in the courts of the United States or any State or Territory thereof or the District of Columbia, shall be subject to trial for that offense in a Federal district court. If the offense occurred within the United States, then venue to try the offense shall be in any district where there occurred any of the acts or omissions complained of. If the acts or omissions all occurred on the high seas or outside the United States, then venue shall lie in the district where the defendant first comes or is brought back to the United States (the intent here being to conform the venue requirements under this article to the general venue requirements of the United States Code). Trial by a State court for substantially the same act or omission which it is proposed to try under this article shall preclude trial under this article by a Federal district court. (This is designed to clarify that a person who already has been tried by a State court cannot be tried under this article in a Federal district court; this may be especially important because of the wide scope of art. 134.)

S. 2015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10, United States Code, is amended by adding after chapter 47 a new chapter as follows:

"Chapter 48.—TRIAL OF CERTAIN PERSONS WHO ACCOMPANY THE ARMED FORCES OUTSIDE THE UNITED STATES

"Sec.
"951. Persons subject to trial; jurisdiction of United States district courts; offenses for which persons may be tried.
"952. Statute of limitations; maximum punishment; general provisions.

"§ 951. Persons subject to trial; jurisdiction of United States district courts; offenses for which persons may be tried.

"(a) Any citizen, national, or other person owing allegiance to the United States who commits any offense referred to in subsection (b) of this section while serving with, employed by, or accompanying the armed forces outside the United States shall be guilty of an offense against the United States and shall be tried for such offense in the United States district court for the judicial district in which such person is found or into which he is first brought.

"(b) The offenses for which any person described in subsection (a) of this section may be tried in a United States district court are those offenses specified in—

"(1) sections 877 through 881 of this title (articles 77–81) insofar as such sections relate to offenses referred to in clauses (2) through (5) of this subsection;

"(2) section 882 of this title (article 82);

"(3) sections 907 through 911 of this title (articles 107–111);

"(4) sections 913, 914, and 916 of this title (articles 113, 114, and 116); and

"(5) section 934 of this title (article 134) to the extent of crimes and offenses not capital.

"§ 952. Statute of limitations; maximum punishment; general provisions

"(a) An indictment may be found at any time without limitation with respect to any offense referred to in section 951(b) of this title for which the death penalty may be imposed. Except as provided in section 843 (f) of this title (article 43(f)), no person shall be prosecuted, tried, or punished under this chapter for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed. No person may be tried under this chapter for any offense if such person has been tried for substantially the same offense in a foreign country pursuant to a treaty or agreement to which the United States is a party.

"(b) The maximum punishment which may be imposed in the case of any person tried for an offense pursuant to this chapter shall be the same as that applicable to persons subject to trial by courts-martial for the same offense, but the provisions of chapter 47 of this title relating to the forfeiture of pay and allowances shall not be applicable in the case of any person tried under authority of this chapter.

"(c) Any offense for which a person is indicted and tried under authority of this chapter shall, for the purpose of all proceedings for or ancillary to the trial of such person, be considered to be an offense prohibited by and punishable under the provisions of title 18, United States Code.

"(d) Nothing in this chapter shall be construed as depriving courts-martial, military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute or law of war may be tried by courts-martial, military commissions, provost courts, or military tribunals.

"(e) As used in this chapter, the term 'outside the United States' means outside the several States, Commonwealth of Puerto Rico, Virgin Islands, Canal Zone, and the special maritime and territorial jurisdiction of the United States."

SEC. 2. (a) The table of chapters at the beginning of title 10, United States Code, is amended by inserting immediately below

"47. Uniform Code of Military Justice---------- 801"

the following:

"48. Trial of Certain Persons Who Accompany the Armed Forces Outside the United States---- 951"

(b) The table of chapters preceding chapter 31 of title 10, United States Code, is amended by inserting immediately below

"47. Uniform Code of Military Justice---------- 801"

the following:

"48. Trial of Certain Persons Who Accompany the Armed Forces Outside the United States---- 951"

The memorandum accompanying Senate bill 2015 is as follows:

PROPOSED BILL TO PROVIDE AN AMERICAN FORUM, WITH FULL CONSTITUTIONAL SAFEGUARDS, TO TRY PERSONS ACCOMPANYING THE ARMED FORCES OUTSIDE THE UNITED STATES

Background memorandum: Until the present century, the United States had no large forces operating overseas and so, with a few exceptions, American civil courts were available to try any crimes that might be committed by civilians who were employed by, serving with, or otherwise accompanying the Armed Forces. On the other hand, the United States now maintains large military contingents overseas, where no American civil courts are available to try American civilian dependents or employees who may commit serious crimes. In a few instances, provisions of the Federal Criminal Code could be invoked as a basis for prosecuting the conduct of Americans outside the country; but, generally speaking, Federal criminal statutes were not intended to apply extraterritorially.

In order to provide an American forum for trial of civilian employees and dependents with our Armed Forces overseas, Congress enacted article 2(11) of the Uniform Code of Military Justice, which subjected to the code "all persons serving with, employed by, or accompanying the Armed Forces without the continental limits of the United States and without certain territories." Thus, civilian employees and dependents of the Armed Forces overseas were made subject to trial by court-martial. Ultimately, article 2(11) was invalidated by the Supreme Court, with the result that, in most instances, there is now no American court, either military or civil, that has jurisdiction to try serious crimes committed by American civilian employees or dependents overseas. Therefore, the only courts which can prosecute those offenses are foreign courts, which are not subject to the U.S. Constitution and may not provide the safeguards available in American courts. There is no indication that the foreign courts are anxious in most instances to try crimes committed by American civilian employees or dependents overseas; but the only alternative is to let the crime go completely unpunished.

The relationship of the conduct of civilian employees and dependents to the maintenance of discipline and morale in the armed services is great enough to give considerable support to the argument made by several dissenters in the Supreme Court that article 2(11) was constitutional under Congress' power to "make Rules for the Government and Regulation of the land and naval Forces." Because of this relationship it seems important to provide a forum for trial of crimes committed by civilian employees and dependents overseas. If this forum is a foreign court, the civilian accused loses the benefit of the safeguards provided by the U.S. Constitution. The Supreme Court has held that this forum cannot be a court-martial. *Kinsella* v. *Singleton,* 361 U.S. 234; *Grisham* v. *Hagan,* 361 U.S. 278; *McElroy* v. *Guagliardo,* 361 U.S. 281. Therefore, virtually by a process of elimination, the Federal district courts seem to be the proper forum for the trial of such misconduct.

Prior to its hearings in 1962, the Subcommittee on Constitutional Rights was informed that the Department of Defense had prepared draft legislation to deal with this

problem (hearings 848–51, 910, 946). However, this draft legislation has apparently bogged down somewhere between the Pentagon and the Department of Justice.

If jurisdiction is to be given the Federal district courts with respect to serious crimes committed overseas by civilian dependents and employees, it would seem desirable to apply the usual venue provisions governing Federal trials of offenses committed outside the United States or on the high seas. Also, since a serviceman cannot be prosecuted in a court-martial after trial by a foreign court in a country which is a party to the NATO Status of Forces Agreement, the civilian employee or dependent should receive the same protection and not be subject to trial in a Federal civil court after trial in a foreign court. Articles 107–132 of the Uniform Code of Military Justice prohibit certain acts which might be committed by a civilian employee or dependent and perhaps with disastrous consequences; in article 134 of the code there is a prohibition of "crimes and offenses not capital" which serves to incorporate by reference the Federal Criminal Code. Accordingly, it would seem to suffice to make a civilian employee or dependent punishable in an American district court if he committed an act or is guilty of an omission for which a member of the Armed Forces, who did the same thing could be punished under articles 107–132 of the Uniform Code or under the "crimes and offenses" provision of article 134.

To implement this proposal, it seems necessary to:

(a) Amend article 2(11)—or enact a separate article—to provide that "all persons serving with, employed by, or accompanying the Armed Forces without the United States, the Canal Zone, Puerto Rico, and the Virgin Islands" shall be subject to trial by a Federal district court for all acts or omissions which, on the part of a member of the Armed Forces would constitute a violation of articles 107 through 132 or "crimes and offenses not capital" within the meaning of article 134.

(b) Provide that the statute of limitations which would apply to the prosecution of a member of the Armed Forces under article 43 shall apply to misconduct by a civilian prosecuted in a Federal district court under this article and the maximum punishment authorized shall be that which would be authorized for the same act or omission if committed at the same time by a member of the Armed Forces.

(c) Provide that venue shall be the same as for offenses committed outside the United States under the venue provisions of the Criminal Code (18 U.S.C. 3231–43 and especially 18 U.S.C. 3238).

(d) Provide that it shall be a defense to prosecution if the defendant has been tried for the same act or omission by the courts of a foreign country and with respect to acts or omissions which allegedly took place within the boundaries of that foreign country.

S. 2016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5148 of title 10, United States Code, is amended by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and by adding at the beginning of such section a new subsection as follows:

"(a) The Judge Advocate General's Corps is established as a Staff Corps of the Navy, and shall be organized in accordance with regulations promulgated by the Secretary of the Navy. Members of the Judge Advocate General's Corps in addition to their other duties shall perform the duties of law specialists under the Uniform Code of Military Justice.

(b) The catch line of such section is amended to read as follows:

"Judge Advocate General's Corps: Judge Advocate General; appointment, term, emoluments, duties".

SEC. 2. Section 5149 of title 10, United States Code, is amended to read as follows:

"§ 5149. Office of the Judge Advocate General: Deputy Judge Advocate General; Assistant Judge Advocate General

"(a) An officer of the Judge Advocate General's Corps shall be detailed as Deputy Judge Advocate General of the Navy. While so serving he is entitled to the rank of rear admiral (upper half) unless entitled to a higher rank under another provision of law. The Deputy Judge Advocate General is entitled to the same privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

"(b) An officer of the Judge Advocate General's Corps shall be detailed as Assistant Judge Advocate General of the Navy. While so serving he is entitled to the rank of rear admiral (lower half), unless entitled to a higher rank under another provision of law. An officer who is retired while serving as Assistant Judge Advocate General of the Navy, or who, after serving at least six months as Assistant Judge Advocate General of the Navy, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the grade of rear admiral. He is entitled to the retired pay of a rear admiral in the lower half of that grade, if he is retired as a rear admiral.

"(c) When there is a vacancy in the office of Judge Advocate General or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases."

SEC. 3. (a) Chapter 539 of title 10, United States Code, is amended by adding after section 5578 a new section as follows:

"§ 5578a. Regular Navy: Judge Advocate General's Corps

"Original appointments to the active list of the Navy in the Judge Advocate General's Corps may be made from persons who—

"(1) are at least 21 and under 35 years of age; and

"(2) have physical, mental, moral, and professional qualifications satisfactory to the Secretary of the Navy.

For the purposes of determining lineal position, permanent grade, seniority in permanent grade, and eligibility for promotion, an officer appointed in the Judge Advocate General's Corps shall be credited with the amount of service prescribed by the Secretary of the Navy, but not less than three years."

(b) Such chapter is further amended by inserting in the table of sections at the beginning of such chapter immediately after

"5578. Regular Navy: Dental Corps."

the following:

"5578a. Regular Navy: Judge Advocate General's Corps."

SEC. 4. Section 5587(c) of title 10, United States Code, is amended by striking "law,".

SEC. 5. (a) Section 5600(b) of title 10, United States Code, is amended by adding at the end of paragraph (1) a new clause as follows:

"(D) Judge Advocate General's Corps—at least three years;".

(b) Such section is further amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

SEC. 6. (a) Subsection (h) of section 202 of title 37, United States Code, is amended by—

(1) striking out "or" at the end of clause (6);

(2) redesignating clause (7) as clause (8); and

(3) adding immediately after clause (6) a new clause as follows:

"(7) Deputy Judge Advocate General of the Navy; or".

(b) Subsection (i) of such section is amended by striking out clause (3) thereof and by redesignating clauses (4) and (5) as clauses (3) and (4), respectively.

(c) Such section is further amended by adding at the end thereof a new subsection as follows:

"(k) An officer serving as Assistant Judge Advocate General of the Navy is entitled to the basic pay of a rear admiral lower half."

SEC. 7. All law specialists in the Navy shall be redesignated as judge advocates in the Judge Advocate General's Corps. All provisions of title 10, United States Code, not inconsistent with this Act, relating to officers of the Medical Corps of the Navy shall apply to officers of the Judge Advocate General's Corps of the Navy.

The memorandum accompanying Senate bill 2016 is as follows:

PROPOSED BILL TO IMPLEMENT THE CONSTITUTIONAL RIGHTS OF NAVAL PERSONNEL TO DUE PROCESS AND ASSISTANCE OF COUNSEL BY ESTABLISHING A JUDGE ADVOCATE GENERAL'S CORPS IN THE NAVY

Background memorandum: The importance and necessity of the assistance of counsel in preparing a defense to criminal charges has long been recognized as basic to Anglo-American law, and was guaranteed to an individual by the sixth amendment to the Constitution ("to have the Assistance of Counsel for his defense.") Constitutionally, this right to counsel is more often seen as part and parcel of the requirement of due process set forth in the fifth amendment. Thus, the denial of the right to counsel is considered a deprivation of the due process. In a recent opinion by the Supreme Court, this requirement was even further extended to State courts under the 14th amendment.

Although the necessity for legally trained counsel has long been spelled out by decisions as regards civilian courts, the existing provisions of the Uniform Code of Military Justice set forth mandatory requirements for qualified counsel which have had significant effects upon the administration of military (and naval) justice. For example, the code requires the presence of at least three uniformed attorneys at every general court-martial and of at least one attorney in connection with the review of every court martial—general, special, or summary. In addition, the code requires that the accused must be represented by an attorney during the pretrial investigation prerequisite to a general court-martial, if he requests such representation, and no deposition will be admissible in evidence in a general court-martial unless the accused was represented by a lawyer.

In light of this increased demand for lawyers for the proper administration of military justice, it is evident that the uniformed legally trained officer must spearhead the protection of the rights of the accused set forth under the code and, more broadly, under the constitutional mandate for "due process." Such protection can only be accomplished where the attorney can be assured of complete independence in the performance of his military duties.

There seemed to be agreement at the hearings of the Subcommittee on Constitutional Rights on the necessity for the creation of a separate Judge Advocate General's Corps in the Navy and that the result would be to enhance the independence of naval counsel, as well as their efficiency (see subcommittee hearings, p. 401).

Under the existing system the Office of the Judge Advocate General of the Navy is a restricted line special duty category to which legally trained individuals are appointed. As such it carries out the functions required under the code in the administration of military justice. Often the legal officer must be both line officer as well as legal officer; in fact, in past years he was used for alternate sea and legal duty to maintain his "line" experience. With the advent of the specialization required by the code, law has become a full-time job for these officers. Often also the paths of regular Navy thought and Navy legal thought appear to be on collision course, and under the existing system substantial pressure can be brought against legal officers to accomplish certain results which other officers consider to be in the best interests of the Navy, irrespective of the legal issues involved and the rights of the accused individual. Perhaps this conflict can best be summed up by the following which appeared in the Military Law Review, April 1959 (p. 111):

"The Judge Advocate General's Corps of the Army bears the heavy responsibility of seeing that the large body of statutes, regulations, and customs governing the military service, both internally and in its relations with the civilian world, is enforced correctly and fairly. It must persuade impetuous officers of the line, impatient of legal restrictions, of the virtues of orderly procedure according to the law."

There seems to be little disagreement that there should be a separate Judge Advocate General's Corps created within the Navy; the only point of issue is how such a step can be brought about and implemented into actual practice.

The attached draft is a revision of H.R. 6889, which was introduced in the House by Representative VINSON during the last Congress, and seems to be quite acceptable to most of the individuals concerned. This effort has received the support of Admiral Mott, Judge Advocate General of the Navy who, as he stated in the subcommittee hearings (p. 401), feels that creation of a separate Judge Advocate General's Corps for the Navy "would be better for the Navy. I think a Judge Advocate General's Corps will make it easier to recruit lawyers, it will be easier to retain them, and we will be able to give our client, the Navy, better service."

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (a) and (b) of section 1552 of title 10, United States Code, are amended to read as follows:

"(a)(1) There is hereby established in the Department of Defense a board to be known as the 'Board for the Correction of Military Records' (hereinafter in this section referred to as the 'Board'). The Board shall be composed of nine members appointed from civilian life by the Secretary of Defense. No reserve or retired member of an armed force of the United States or of the United States Coast Guard shall be eligible for appointment to the Board.

"(2) Each member of the Board shall be appointed for a period of three years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the members first appointed to the Board shall expire, as designated by the Secretary of Defense at the time of appointment, three at the end of one year, three at the end of two years, and three at the end of three years. The Secretary of Defense shall designate from time to time one of the members of the Board to serve as Chairman.

"(3) Each member of the Board shall receive the same salary which shall be fixed by the Secretary of Defense. No duties other than those directly concerned with the administration of this section may be assigned to members of the Board if such duties in any manner interfere with or adversely affect the proper administration of this section.

"(4) The Board shall determine the number of members required to constitute a quorum, and shall prescribe its own rules of procedure for the conduct of its affairs. A vacancy in the Board shall not impair the right of the remaining members to exercise the powers of the Board. The Secretary of Defense may remove any member of the Board, after notice and hearing, for neglect of duty or malfeasance in office, or for mental or physical disability, but for no other cause.

"(5) Upon his certificate, each member of the Board is entitled to be paid out of appropriations for such purpose (A) all necessary traveling expenses, and (B) reasonable maintenance expenses, incurred while attending Board meetings or transacting official business outside the District of Columbia.

"(b) It shall be the function of the Board to review the service record of any member or former member of an armed force and to correct such record when it considers such action necessary to correct an error or to remove an injustice. The power of the Board shall include authority to modify, set aside, or expunge the findings or sentence, or both, of a court-martial case not reviewed by a board of review pursuant to section 866 of this title (article 66) when it considers such action necessary to correct an error or to remove an injustice; and in any case in which the Board determines that an error has been committed or an injustice suffered as the result of a court-martial trial which has been reviewed pursuant to section 866 (article 66) it may recommend to the Secretary concerned that the Secretary exercise his power under section 874 or 875 of this title (article 74 or 75). Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States."

SEC. 2. Section 1552 of title 10, United States Code, is further amended by—

(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) adding after subsection (b), as amended by this section, a new subsection (c) as follows:

"(c) No correction may be made under this section unless the claimant or his heir or legal representative files a request therefor within 3 years after he discovers the error or injustice. However, the Board may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.";

(3) striking out "department concerned may pay" in subsection (d), as redesignated by this Act, and inserting in lieu thereof "department concerned shall pay";

(4) striking out "who was paid under subsection (c)" in subsection (e), as redesignated by this Act, and inserting in lieu thereof "who was paid under subsection (d)"; and

(5) adding at the end thereof a new subsection as follows:

"(g)(1) The Secretary of the Treasury is authorized to establish in the Treasury Department a board to review and correct military records of members and former members of the United States Coast Guard. Such board, if established, shall be composed of three civilian members, appointed by the Secretary of the Treasury, none of whom shall be members of or retired from the United States Coast Guard or the armed forces. The members of such board, if established, shall be appointed for a term of three years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the members first appointed to the board shall expire, as designated by the Secretary of the Treasury at the time of appointment, one at the end of one year, one at the end of two years, and one at the end of three years. The Secretary of the Treasury shall designate from time to time one of the members of the board to serve as Chairman. The Board shall have the same powers and functions regarding the correction of military records of members and former members of the Coast Guard as the board established under subsection (a) of this section has with regard to the correction of military records of members and former members of the armed forces.

"(2) In the event the Secretary of the Treasury does not elect within one year after the date of enactment of this paragraph to establish a board pursuant to paragraph (1) hereof, the board established under subsection (a) of this section to correct military records of members and former members of the Armed Forces shall have authority to review and correct military records of members and former members of the Coast Guard in the same manner and to the same extent as it may review and correct military records of members and former members of the Armed Forces."

SEC. 3. Any case pending before any board established under section 1552 of title 10, United States Code, on the effective date of this Act shall be transferred for review and disposition to the appropriate board authorized to be established pursuant to the amendments made by this Act.

SEC. 4. The amendments made by this Act shall become effective on the first day of the third calendar month following the month in which this Act is enacted.

The memorandum accompanying Senate bill 2017 is as follows:

PROPOSED BILL TO PROTECT THE CONSTITUTIONAL RIGHTS OF SERVICE PERSONNEL BY ESTABLISHING AN INDEPENDENT AND IMPARTIAL FORUM TO REVIEW POSSIBLE ERRORS OR INJUSTICES AFFECTING THE RECORDS OF SERVICE PERSONNEL

Background memorandum: The Congress has provided for Discharge Review Boards and Boards for the Correction of Military Records (see 10 U.S.C. 1552–3). The former boards are composed of military personnel and review the type and nature of any discharge or dismissal from the Armed Forces, unless the discharge or dismissal resulted from the sentence of a general court-martial. The correction boards, which are composed of civilians, have the authority to recommend to the Secretary of their Department that he "correct any military record of that Department * * * to correct an error or to remove an injustice." The correction boards are established by each military Department and by the Secretary of the Treasury; their members are usually performing other duties in addition to the duty as member of the correction board. Although the correction boards can recommend corrective action with respect to the findings and sentence of a court-martial, the effect of such recommendations is unclear in light of the direction in article 76 of the Uniform Code of Military Justice that the proceedings, findings and sentence of courts-martial, after undergoing the appellate review prescribed by the Code, "shall be final and conclusive." Of course, for summary court-martial cases or special court-martial cases that have not resulted in a punitive discharge, the appellate review of the case is somewhat limited; and under the present wording of article 73 a petition for a new trial cannot be submitted. Absent the possibility of relief from the correction

board, the serviceman has little chance to rectify an injustice at the hands of the court-martial, even though his constitutional rights may have been violated.

Since the correction boards today do not usually have full-time members, the members of the board may be compelled to subordinate their duties on the board to other pressing matters. Furthermore, even though many of the statutes and directives applicable to requests for correction of records may apply to all the Armed Forces, there is always the possibility that the different correction boards will vary quite markedly in their application of those statutes—with a resulting lack of uniformity. Accordingly, it seems desirable to have a single correction board for the military departments with the members of this board to have no other duties. The Secretary of the Treasury should have the authority to establish his own correction board for Coast Guard cases or to have applications for correction of records considered by the Defense Department board. The unified correction board, which, for administrative purposes should be located in the Office of the Secretary of Defense, should have the authority either to make binding determinations that records should be corrected to correct an error or injustice or to recommend action to the Secretary of the appropriate military department. With respect to cases that have not received the full appellate review by a board of review authorized under article 66 of the Uniform Code, the correction boards should have full authority to modify, set aside, or expunge either the findings or the sentence of the court-martial; and article 76 of the Code should be amended to this effect. Even with respect to cases that have been reviewed under article 66, there seems nothing amiss in giving the boards authority to recommend to the Secretary of the appropriate military department that he take action under articles 74 and 75.

To implement this proposal it seems desirable to:

(a) Amend 10 U.S.C. 1552 to provide that the Secretary of Defense shall appoint a board of civilians which may order the correction of any military or naval record when the board deems this necessary to correct an error or remove an injustice.

(b) Require in 10 U.S.C. 1552 that the members of the correction board devote substantially all of their working time to their duties as board members.

(c) Modify article 76 of the Code (10 U.S.C. 876) and 10 U.S.C. 1552 to authorize the correction board to modify, expunge, and set aside for any purpose a court-martial conviction that has not been reviewed by a board of review under article 66 of the Uniform Code; and to authorize the correction board, even in cases which have been reviewed under article 66, to make recommendations to the Secretary of the appropriate military department, which recommendations shall however be purely advisory, concerning the exercise of his discretion under articles 74 and 75 of the Uniform Code.

(d) Authorize the Secretary of the Treasury either to establish his own correction board, which need not be composed of employees who have no other duty, or to submit applications for relief received by him to the Defense Department Correction Board under regulations to be promulgated jointly by him and the Secretary of Defense; but the correction board which considers Coast Guard cases shall have the same authority in these cases as the Defense Department Correction Board has in cases concerning requests for correction of military records.

S. 2018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 801(10) (article 1(10)) of title 10, United States Code, is amended by striking out "'Law officer'" and inserting in lieu thereof "'Military judge'".

(b) Section 806(c) (article 6(c)) of such title is amended by striking out "law officer" and inserting in lieu thereof "military judge".

SEC. 2. Section 816 (article 16) of title 10, United States Code, is amended by striking out in clause (1) "law officer" and inserting in lieu thereof "military judge".

SEC. 3. Section 826 (article 26) of title 10, United States Code, is amended to read as follows:

"§ 826. Art. 26. Military judge of a general court-martial

"(a) The Judge Advocate General of the military department concerned shall detail a military judge to every general court-martial convened within the military department of which the Judge Advocate General is a member.

"(b) A military judge shall be a commissioned officer of the Armed Forces, or a civilian, who is a member of a Federal court or a member of the highest court of a State and who is certified to be qualified for duty as a military judge of a general court-martial by the Judge Advocate General of the Armed Force of which such military judge is a member or employee, as the case may be.

"(c) Except in the case of a general court-martial convened by the President or the Secretary of a military department, an officer detailed as military judge of a general court-martial shall not be a member of the same command as the convening authority of such court-martial; and in no case, except in the case of a general court-martial convened by the President or the Secretary of a military department, shall the convening authority of a general court-martial (or any member of the staff of such convening authority) be responsible for the preparation or review of any report concerning the effectiveness, fitness, or efficiency of any officer detailed as a military judge of a general court-martial convened by such authority.

"(d) Any person certified to serve as military judge shall be assigned and directly responsible to the Judge Advocate General of the Armed Force of which he is a member or of which he is an employee, as the case may be. A military judge shall perform such duties of a judicial nature other than those relating to his primary duty of military judge of a general court-martial whenever such duties are assigned to him by or with the approval of the appropriate Judge Advocate General. Duties of a nonjudicial nature may not be assigned to a military judge except in time of war, and then only with the approval of the appropriate Judge Advocate General.

"(e) Any military judge of one Armed Force may be detailed to serve as military judge of a general court-martial of a different Armed Force with the consent of the Judge Advocate General of the Armed Force of which such military judge is a member or employee, as the case may be.

"(f) No person is eligible to act as military judge in a case if he is the accuser or a witness for the prosecution or has acted as investigating officer or a counsel in the same case.

"(g) The military judge of a general court-martial may not consult with the members of the court, other than on the form of the findings as provided in section 839 of this title (article 39), except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court."

SEC. 4. Section 866 (article 66) of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(g) No member of a board of review shall be eligible to review the record of any trial if such member served as investigating officer in the case or served as a member of the court-martial before which such trial was conducted, or served as military judge, trial or defense counsel, or reviewing officer of such trial."

SEC. 5. Sections 827 (a) (article 27 (a)), 829 (b) (article 29 (b)), 837 (article 37), 839 (article 39), 841 (a) and (b) (article 41 (a) and (b)), 842 (a) (article 42 (a)), 851 (b) and (c) (article 51 (b) and (c)), 854 (a) (article 54 (a)), and 936 (b) (article 136 (b)) of title 10, United States Code, are amended by striking out "law officer" wherever it appears in such sections and inserting in lieu thereof "military judge".

SEC. 6. The amendments made by this Act shall become effective with respect to general courts-martial convened on or after the first day of the third calendar month following the date of enactment of this Act.

The memorandum accompanying Senate bill 2018 is as follows:

PROPOSED BILL TO IMPLEMENT THE CONSTITUTIONAL RIGHT OF SERVICE PERSONNEL TO RECEIVE DUE PROCESS AND FAIR AND IMPARTIAL TREATMENT IN TRIALS BY GENERAL COURTS-MARTIAL

Background memorandum: At the present time there are three kinds of court-martial—general, special, and summary courts-martial. The general court, which must consist of at least five members, is not subject to the same limitations of its jurisdiction that apply to other courts-martial. (See articles 18–20 of the Uniform Code of Military Justice, 10 U.S.C. 818–820.) Therefore, it is used for trial of the more serious offenses, where the sentence and punishment may be quite severe. Because of the consequences of a conviction by general court-martial, Congress required for the first time in the Uniform Code of Military Justice that each general court-martial have a law officer, who must be a qualified attorney and, like a judge, sits apart from the members of the court, rules on interlocutory questions, and instructs the members concerning the law applicable to the cases before them. Unlike a Federal judge, the law officer, under present law, is not authorized to impose sentence; nor may he rule finally on challenges to the court-martial members.

Since the Uniform Code first took effect in 1951, the Court of Military Appeals has tended more and more to equate the status and responsibility of the law officer to that of a judge and has inferred that Congress intended for him to have certain powers—like that of declaring a mistrial—which a trial judge would usually possess. Also, the Army and more recently the Navy have initiated a program—the field judiciary (or trial judiciary) program—designed to enhance the independency, impartiality, and efficiency of their law officers. This field judiciary program, which was described in detail during the course of the hearings held in 1962 by the Subcommittee on Constitutional Rights (see pp. 838–839 of the hearings), has received widespread acclaim and has produced signal results in reducing errors at the trial and in assuring that the accused serviceman received due process. Moreover, the law officers appointed pursuant to the field judiciary program have apparently been especially immune from command influence and so have been better able to assure the fairness and impartiality of the trial.

Because the advantages of the field judiciary program have proved so great, several witnesses at the hearings urged that it be given specific recognition by the Congress and applied to each armed service. In this way the airman could be better assured of receiving the same type of trial by general court-martial that the soldier and sailor have obtained under the field judiciary program. Moreover, until the field judiciary system is required by statute, there will always be the risk that even the Army or Navy might abandon it.

Under the field judiciary program, the performance of duty as law officer is a full-time matter—rather than something to be sandwiched in among a host of nonjudicial duties. Furthermore, the law officer is not assigned to the staff of a field command, where he may be trying a case and may be subject to subtle or overt command influence, but instead falls under the supervision of the Office of the Judge Advocate General of his armed service. Efficiency reports concerning a member of the field judiciary, which will help determine his future promotions and assignments, are prepared by a senior member of the field judiciary, rather than by some commanding officer in the field.

Since the time of the subcommittee's hearings last year, the Army has introduced various refinements of the field judiciary program. However, the basic ingredients of the system remain the same; namely, mature full-time law officers, who are not subject to any sort of influence by the commander who has convened the general court-martial to which the law officer has been appointed.

If the field judiciary is to be given statutory sanction, the members of the judiciary could properly be redesignated as "military judges" a term which could give a clearer picture of their function. Also, with a view to obtaining the best utilization of personnel and in accord with the premise that justice should be of the same quality in all the services, interservice exchange of the members of the field judiciary should be facilitated, so that an Army law officer could be readily available for an Air Force general court-martial, or vice versa. At the present time, under paragraph 4g(3) of the 1951 Manual for Courts-Martial, such interservice appointments are possible—with the consent of the Secretary of each Department involved; but, probably because of the cumbersomeness of obtaining the consent of both Secretaries, this authority is used quite infrequently. An easier procedure for interservice use of qualified law officers seems desirable.

Although the members of the field judiciary should be full-time military judges, it would not be inconsistent with this concept for them to perform duties of a judicial nature other than in a general courts-martial. For instance, there have been proposals to reconstitute the special court-martial with a law officer or to provide a law officer for administrative discharge boards considering proposed discharges under other than honorable conditions. Therefore, it does not seem amiss to provide that, although the primary duty of the military judge shall be to serve on general courts-martial, he shall not be disqualified to perform other duties of a judicial nature. Also, because of possible manpower problems during wartime, it seems desirable to provide that the requirement of full-time judicial duty for the military judge shall not apply in time of war; and the Judge Advocate General shall be free to assign to the military judge nonjudicial duties to the extent that this may become necessary.

There is much to be said in favor of requiring a minimum tour of duty for the military judge, so that he could not be reassigned at once to some other type of activity if his decisions proved favorable to the accused. On the other hand, this requirement might introduce excessive rigidity in the system and might preclude the Judge Advocate General from removing from duty as military judge an officer who had not displayed suitable competence and impartiality. On balance, the best solution at this time seems to be to rely on the fairness of the Judge Advocate General not to reassign a military judge to other duty merely because he has ruled frequently in favor of accused persons.

During the hearings no loud voices were heard in favor of having civilian lawyers preside over general court-martial, as is currently done under the British Articles of War. However, no objection is apparent to amending the Uniform Code to enable a civilian attorney to serve as military judge or law officer if the Judge Advocate General chooses to assign him to such duty. Although such an authorization would probably never be used by the Armed Forces, it seems desirable to give them this option.

To implement the foregoing proposals, it seems necessary to:

(a) Amend article 26 of the Uniform Code, 10 U.S.C. 826, to require that every general court-martial have a military judge, who shall have the same qualifications and disqualifications now stated in article 26(a) except that he may be either an officer or a civilian employee. Then, after setting forth the qualifications of the military judge and prohibiting the convening of a general court-martial without such a judge, article 26 should provide that this military judge shall not be a person assigned to the command of the officer who convenes the court-martial, unless the court-martial is convened by the President or the Secretary of the Department (art. 22(a)). Furthermore, this military judge shall be assigned to the office of the Judge Advocate General of his armed service, although he may be attached for administrative or record-keeping purposes to some other organization or activity. No efficiency or fitness report shall be prepared on the military judge by any convening authority, other than the President or the Secretary of the Department, nor be prepared by any person who is assigned to the staff of any such convening authority. Furthermore, article 26 should provide that, the military judge's primary and full-time duty shall be as judge for general courts-martial, except that this shall not preclude his performance, with the consent of his Judge Advocate General, of other duties of a judicial nature to the extent they do not interfere with his duties in general courts-martial and except that in time of war the Judge Advocate General may assign him additional duties of a nonjudicial nature.

(b) Enact a new subsection of article 26 which will allow a military judge to serve in a trial by court-martial or other judicial proceeding which involves a member of a different armed force, so long as this is done with the consent of the Judge Advocate General of his own armed force.

(c) In every article of the code which refers to the law officer of a general court-martial, substitute "military judge" (e.g., arts. 16, 26, 27, 29, 39, 41, 42, 51, 54).

S. 2019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 866 (article 66) of title 10, United States Code, is amended to read as follows:

§ 866. Article 66. Courts of Military Review

"(a) There is established for each military department an appellate court which shall have authority to review, as provided in this section, courts-martial cases tried by that military department for which such court is established. Each such court is a court of record and shall be known as the Court of Military Review for the military department for which it is established. The Court of Military Review for any military department shall, for administrative purposes only, be located in such department.

"(b) The Secretary of each military department shall appoint persons to serve as judges of the Court of Military Review for that military department. The Court of Military Review for each military department shall consist of as many three-judge panels as the Secretary of the department concerned shall deem necessary. The Secretary of the military department concerned shall from time to time designate one of the judges of the Court of Military Review for such military department as chief judge of such court. Only civilian judges of each court shall be eligible to act as chief judge. Any civilian and any commissioned officer of the Armed Forces shall be eligible for appointment to a Court of Military Review if such civilian or officer is a member of the bar of a Federal court or the highest court of a State, has had not less than six years' experience in the practice of military justice, and meets such other qualifications as may be prescribed by the Secretary concerned.

"(c) The Courts of Military Review for each military department shall sit in panels of three judges each for the purpose of reviewing courts-martial cases. The composition of such panels shall be determined by the chief judge of the court concerned; but the chief judge on his own motion, or on the request of at least one-half of the judges of the court concerned, may require the court to sit en banc for the purpose of reviewing any particular court-martial case. A judge of the Court of Military Review of one military department may sit as a judge of the Court of Military Review for another military department when authorized to do so by the Secretaries of the military departments concerned.

"(d) At least one judge of each three-judge panel of any Court of Military Review shall be a civilian who is not a retired member of any armed forces.

"(e)(1) Any commissioned officer appointed to a Court of Military Review shall be appointed for a term of three years, and shall be eligible for reappointment.

"(2) Any persons appointed to a Court of Military Review from civilian life shall be appointed in accordance with the civil service laws. Any person appointed to such court from civilian life shall serve during good behavior, and may be removed from office only for physical or mental disability or other cause shown, upon notice and hearing, by the Secretary concerned.

"(f) Any person appointed to a Court of Military Review shall be known as military judge, and any commissioned officer appointed to serve on a Court of Military Review shall, in all matters relating to the work of such court, be addressed and referred to as a military judge without reference to his military grade.

"(g) The Judge Advocate General shall refer to the Court of Military Review the record in every case of trial by court-martial in which the sentence as adjudged by the court-martial affects a general or flag officer or extends to death, dismissal of an officer, cadet, or midshipman, dishonorable or bad-conduct discharge, or confinement for one year or more.

"(h) In any case referred to it, a Court of Military Review shall act only with respect to the findings and sentence as approved by an officer exercising general court-martial jurisdiction. It shall affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as it finds correct in law and fact and determines on the basis of the entire record, should be approved. It may, also, suspend all or any part of the sentence. In considering the record it shall have the authority to weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact.

"(i) If a Court of Military Review sets aside the findings and sentence it may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside the findings and sentence and does not order a rehearing it shall order that the charges be dismissed.

"(j) The Judge Advocate General shall, unless there is to be further action by the President, or the Secretary of the Department, or the Court of Military Appeals, instruct the convening authority to carry out

the mandate of the Court of Military Review. If the Court of Military Review has ordered a rehearing and the convening authority finds a rehearing impracticable, he may dismiss the charges.

"(k) The Chief Judges of the Courts of Military Review shall prescribe uniform rules of procedure for proceedings in and before such courts subject to the approval of the Chief Judge of the Court of Military Appeals."

SEC. 2. (a) Section 865 (b) (article 65 (b)), section 867 (b), paragraphs (2) and (3) (article 67 (b) (2) and (3)), section 867 (c) and (f) (article 67 (c) and (f)), section 870 (b), (c), and (d) (article 70 (b), (c), and (d)), and section 871 (c) (article 71) of title 10, United States Code, are each amended by striking out "board of review" wherever it appears in such sections and inserting in lieu thereof "Court of Military Review".

(b) The first sentence of section 868 of such title (article 68) is amended by striking out ", and to establish in such branch office one or more boards of review".

(c) The last sentence of section 868 of such title (article 68) is amended to read as follows:

"That Assistant Judge Advocate General may perform for that command, under the general supervision of the Judge Advocate General, the duties which the Judge Advocate General would otherwise be required to perform in respect to all cases involving sentences not requiring approval by the President."

(d) Section 869 of such title (article 69) is amended by striking out "reviewed by a board of review" and inserting in lieu thereof "transmitted for review to the Court of Military Review".

(e) Section 873 of such title (article 73) is amended to read as follows: "If the accused's case is pending before a Court of Military Review or before the Court of Military Appeals, the Judge Advocate General shall refer the petition to the appropriate court for action."

SEC. 3. The provisions of this section shall become effective on the first day of the third calendar month following the calendar month in which it is enacted. Any case pending before a board of review on the effective date of this Act shall be transmitted to the appropriate Court of Military Review for review and disposition.

The memorandum accompanying Senate bill 2019 is as follows:

PROPOSED BILL TO PROVIDE ADDITIONAL CONSTITUTIONAL PROTECTION FOR MEMBERS OF THE ARMED FORCES BY ESTABLISHING COURTS OF MILITARY REVIEW, AND FOR OTHER PURPOSES

The Uniform Code of Military Justice makes provision in article 66 for boards of review to review the record of trial by court-martial in every case where the sentence, as approved, affects a general or flag officer, or extends to death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable or bad conduct discharge, or confinement for 1 year or more. Certain other cases tried by general court-martial may also be referred to the boards of review pursuant to article 69 of the code. While the Court of Military Appeals acts only with respect to findings and sentence which are incorrect in law, the boards of review also review issues of fact and such matters as the appropriateness of sentence. Thus, in cases raising constitutional issues, such as the voluntariness of a confession, the boards of review may reexamine factual, as well as legal, issues in deciding the case on appeal.

During the hearings of the Subcommittee on Constitutional Rights concerning the "Constitutional Rights of Military Personnel," it was explained that the Navy boards of review have as members both naval officers and civilian employees of the Navy Department. On the other hand, the boards of review of the Army and Air Force use only military officers. In order to assure that the board members will have an opportunity to develop some degree of expertise in their work, it would seem advisable to provide a minimum tour of duty for these military members of the respective boards. The practice of the Navy in having civilian members on the boards provides some continuity and probably facilitates understanding and application by the board of the legal principles enunciated by the all-civilian Court of Military Appeals. To enhance the stature of the boards of review and emphasize their judicial role as guardian of the rights of military personnel, it also seems desirable to redesignate them as "Courts of Review." Because of the relatively small number of cases processed by the Coast Guard Board of Review, it may not be feasible to reconstitute the boards in that particular service.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION BILL, 1964; NOTICE OF MOTION TO SUSPEND THE RULE

Mr. JAVITS submitted the following notice in writing:

Pursuant to the provisions of rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend paragraph 4 of rule 16, for the purpose of proposing to the bill H.R. 5888, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1964, and for other purposes, the following amendment, viz, on page 31, line 3, before the period insert the following: ": *Provided further*, That the funds herein appropriated shall be used only for hospitals and related facilities which are made available to all persons without discrimination in any respect whatsoever on account of race, creed, or color".

Mr. JAVITS also submitted an amendment, intended to be proposed by him, to House bill 5888, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1964, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATION BILL, 1964—AMENDMENTS

Mr. PROXMIRE submitted amendments, intended to be proposed by him, to the bill (H.R. 5888) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1964, and for other purposes, which were ordered to lie on the table and to be printed.

Mr. CLARK (for himself and Mr. RANDOLPH) submitted an amendment, intended to be proposed by them, jointly, to House bill 5888, supra, which was ordered to lie on the table and to be printed.

DOMESTIC VESSELS CONSTRUCTION SUBSIDY—ADDITIONAL COSPONSORS OF BILL

Mr. BARTLETT. Mr. President, I ask unanimous consent to have the names of the junior Senator from Oregon [Mrs. NEUBERGER], the junior Senator from Michigan [Mr. HART], the junior Senator from Ohio [Mr. YOUNG], and the junior Senator from Minnesota [Mr. MCCARTHY] added as cosponsors of S. 1773, a bill introduced by me which would authorize a construction subsidy program for carriers in the domestic trade.

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

AID FOR DOMESTIC SHIPPING

Mrs. NEUBERGER. Mr. President, for over 40 years the lumber producers of Oregon, Washington, and California have been compelled to pay a hidden subsidy for ocean transport to carry their lumber to the great Atlantic coast markets.

By the terms of the Jones Act of 1920, American-flag vessels were granted a domestic shipping monopoly. As a result, domestic shippers, such as the west coast lumbermen, must pay shipping rates derived from high domestic construction and seafaring costs, while their Canadian lumber competitors are free to purchase shipping on the low world market.

British Columbia sawmills have now, midway through 1963, claimed 69 percent of the U.S. Atlantic coast, waterborne, cargo lumber market. Thus, low cost foreign shipping has enabled the Canadians to capture a market which Washington and Oregon cargo sawmills held without interruption from 1920 until the very recent past.

Has the Jones Act nevertheless succeeded in nourishing the domestic merchant marine? Hardly. As late as 1955 there were 101 ships, manned by 4,300 men, plying the intercoastal trade. Today there remain no more than 22 vessels in the intercoastal trades, supplying jobs to less than 1,000 seamen. There are no common carriers left to serve Northwest lumber shippers. Two private carriers remain, who offer, from time to time, space to lumber producers. During one month early this year, neither of these lines had space available.

Those few vessels that remain in service are relics of World War II, unspecialized, inefficient. Yet the dismal condition of intercoastal trade furnishes the ship operator no incentive to replace his vessels with modern specialized ships capable of providing efficient, economical service.

Our distinguished colleague from Alaska [Mr. BARTLETT], the knowledgeable and perceptive author of S. 1773, is exactly right when he says: "Now is the time that both the legislative and executive branch of our Government make a final determination. Do we want a domestic shipping industry? Should this industry survive?" His answer to each of these critical questions is affirmative. And his solution, embodied in S. 1773, is a bold program of construction and ren-

ovation subsidies for the Great Lakes and coastwise shipping industry.

Mr. President, I know that I share with the author of S. 1773 an extreme reluctance to call upon the American taxpayer to support any new subsidy. And I share with Senator BARTLETT the belief that the Nation's requirement for a revitalized domestic merchant marine must be subjected to the most searching congressional scrutiny. We must be satisfied, Mr. President, that a vigorous merchant marine is indeed vital to the interests of the United States. But, once we are satisfied, then we must proceed in a realistic manner to resuscitate our merchant fleet. And the costs must be borne not by the lumber industry, not by the producers of commodities on the Great Lakes, but, as proposed in S. 1773, by the Nation as a whole. For these reasons, I am pleased to join today as a cosponsor of S. 1773.

Of course, even if Congress accepts the principles embodied in S. 1773 it will take time to implement its provisions. It will take 2 or 3 years before we can hope to view meaningful progress in the overhaul of our domestic fleet. During the interim, relief must be granted to those domestic industries which cannot now obtain adequate water carriage at competitive rates.

In the Puerto Rican lumber trade, where no American vessels have been employed for over 2 years to carry Northwest lumber, the 1962 suspension of the Jones Act must be extended until such time as the domestic merchant marine is capable of providing adequate service. As of the first 5 months of this year, over 5 million board feet of American lumber were sold to Puerto Rico under the 1962 suspension—sales which would otherwise have gone to Canada.

With respect to Great Lakes and intercoastal shipping, the ship operator who enrolls in a program of vessel renovation or construction contemplated by S. 1773, should be permitted to enter into bare boat charters for foreign vessels—to be manned by American crews—pending the completion of renovation or construction. Such temporary relief is needed if the shippers are to have the continuity of transport essential to their survival.

AMENDMENT OF MINERAL LEASING ACT—ADDITIONAL COSPONSORS OF BILL

Mr. GRUENING. Mr. President, on August 2 I introduced, on my own behalf and that of Senators MCGEE, HOLLAND, ENGLE, SIMPSON, MOSS, BIBLE, CANNON, KUCHEL and MECHEM, the bill (S. 1984) to amend the Mineral Leasing Act regarding the timely payment of rentals, and for other purposes.

Inadvertently, the names of the cosponsors were omitted from S. 1984 as printed.

Mr. President, I ask unanimous consent that at the next printing of S. 1984 the names of the cosponsors, as stated above, be added to the bill.

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

STANDING COMMITTEE ON VETERANS' AFFAIRS—ADDITIONAL COSPONSORS OF RESOLUTION

Mr. DIRKSEN. Mr. President, on the next printing of Senate Resolution 176, I ask unanimous consent that the names of the Senator from California [Mr. ENGLE] and the Senator from Washington [Mr. JACKSON] be added to the cosponsors.

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

TESTING OF KREBIOZEN

Mr. DIRKSEN. Mr. President, on July 18 a number of Members of the Senate introduced Senate Joint Resolution 101, to direct the National Institutes of Health to undertake an immediate test of a cancer drug known generally as Krebiozen, and to report, on a quarterly basis, the results of these tests to the Congress.

The resolution also directs the Food and Drug Administration to withhold action on any new drug application on Krebiozen until the test has been completed. The resolution also authorizes a $250,000 appropriation for this purpose.

This matter of Krebiozen has been a subject of controversy over a long period of time, and has received extensive consideration by the Chicago press. On April 30, 1963, I inserted in the RECORD a report from the National Institutes of Health, and also one from the American Cancer Journal.

In order to make this statement reasonably complete, I ask unanimous consent that in connection with this statement the NIH report and the American Cancer Journal report be included herein.

In addition, I ask unanimous consent that an editorial appearing in the Chicago Daily News on Thursday, July 18, 1963, under the title "Krebiozen Is Big Money," be made a part of my remarks.

I ask also that an article from the Chicago Daily News dated August 2, 1963, by Arthur J. Snider, science writer for the Daily News, be included.

I ask also that an editorial in the Chicago Daily News of July 22 be made a part of this statement.

I ask also that there be included a statement by Dr. Stevan Durovic, director, Krebiozen Research Foundation, Chicago, which appeared in the "Letters to the Editor" column of the Chicago Daily News on July 22, 1963.

Further, Mr. President, I ask that another editorial from the Chicago Daily News, dated July 30, 1963; and, a news article from the Chicago Tribune of July 30, 1963, be printed in the RECORD at this point.

There being no objection, the reports, editorials, and articles were ordered to be printed in the Record, as follows:

[From the CONGRESSIONAL RECORD, Apr. 30, 1963]

REPORT ON THE CURRENT STATUS OF KREBIOZEN—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, WASHINGTON

Shortly after Dr. Kenneth M. Endicott became Director of the National Cancer Institute in July 1960, he met with Drs. Andrew Ivy and Stevan Durovic to discuss the possibility of a National Cancer Institute test of this drug. Drs. Ivy and Durovic agreed to analyze their data accumulated during the investigational study of the drug and to present the analysis to Dr. Endicott. Dr. Endicott agreed to study the report and to decide whether it provided a basis on which the National Cancer Institute could sponsor a clinical trial.

In April 1961, during the pendency of a libel suit between Dr. Ivy and Dr. Stoddard in the northern district of Illinois, District Judge Miner concluded that he could not decide the case without deciding whether Krebiozen had any merit as a cancer treatment. He wrote to Dr. Endicott asking that the Department undertake an evaluation of the drug.

Secretary Ribicoff replied with a detailed statement of what would be needed to enable the Department to appraise the drug as a cancer treatment. Briefly, Judge Miner was told that we would have to have complete information about composition, how and where the drug was made, the controls exercised to assure its safety and effectiveness, the analytical methods available to control its composition, and full information about all of the claimed cures. Secretary Ribicoff's letter indicated that, since the drug had been used for a considerable period of time under an investigational use label, it had had a comprehensive human test, and that the records should show whether or not the drug had any merit in the treatment of cancer. He told the firm that the Department would have to have full documentation on each claimed cure, including the diagnosis (with biopsy), treatment given before and after Krebiozen, details of Krebiozen treatment, and the basis on which it had been concluded that Krebiozen was effective.

On September 29, 1961, Drs. Ivy, Durovic, and Pick brought to Dr. Endicott (1) a voluminous rough draft report, (2) a manuscript to be considered for publication in the journal of the National Cancer Institute, and (3) two small vials containing minute amounts (considerably less than the 10 milligrams they claim to have delivered) of a whitish material which was said to be Krebiozen.

The manuscript was submitted to the editorial board of the Journal of the National Cancer Institute, and the vials were delivered to chemists for analysis. The editorial board rejected the manuscript on the ground that it did not meet established standards for publication in the Journal. Dr. Andervont wrote to Dr. Ivy on December 1, 1961, explaining the reasons for the rejection.

The analysis of the report and of the material in the vials required some months. On March 7, 1962, Dr. Endicott wrote to Drs. Ivy and Durovic detailing the inadequacies in the data and requesting additional information.

The next the Department heard on this was a letter from Dr. Ivy which was placed in the CONGRESSIONAL RECORD on July 20, 1962. A copy of this letter was delivered to Dr. Endicott's office on July 17, 1962. This letter challenges many statements in Dr. Endicott's letter of March 7, but it does not present any additional scientific data. Nothing that has been submitted to the National Cancer Institute, or has otherwise come to the Department's attention, lends, in our judgment, any scientific support to the claims published in the CONGRESSIONAL RECORD, volume 108, part 11, pages 14287–14291, under the heading "Improvement, Objective and Subjective, in 35 Tumor Types (Organ Groups) Treated With Krebiozen."

For some time Krebiozen has been promoted and sold as a cancer remedy. On November 29, 1962, Commissioner Larrick of the Food and Drug Administration received a voluminous promotional piece for Krebiozen, which includes the chart reproduced

in the CONGRESSIONAL RECORD and claims that substantially all forms of cancer yield to Krebiozen therapy in a significant percentage of cases.

There is no license or approved new drug application for this product. Its sale without a license is prohibited by the biological control provisions of the Public Health Service Act. It is being distributed ostensibly for investigational use on human patients. That there has not been compliance with the regulations for the investigative use of drugs is evident from the fact that the records required to be kept and made available are not available.

The National Cancer Institute has stated that it cannot help to resolve this long-continued controversy without the scientific evidence on which the claimed merit of Krebiozen rests. The Institute cannot design a clinical study and ask volunteers to submit to this drug without dependable information about how it is made, standardized, and controlled and without substantial evidence from preclinical studies to establish its safety and clinical evidence from the 12 years of its widespread use for investigational purposes to support the idea that the drug may possibly have merit in some types of cancer. This is the information which Drs. Ivy and Durovic were asked to supply to Dr. Endicott's letter of March 7.

The basic difficulty is that Drs. Ivy and Durovic either cannot or will not supply this necessary information. Perhaps to some extent they do not have it, but are relying on secondhand reports about the action of the drug. In their letter, which appears in the CONGRESSIONAL RECORD, they suggest "that the National Cancer Institute obtain the services of other Federal agencies with legal authority and power to secure this information from hospitals and physicians who have refused to give it to us."

The Food and Drug Administration and the Division of Biologic Standards of the Public Health Service are initiating an appropriate investigation. They will ask Drs. Ivy and Durovic to cooperate by giving the names and addresses of treated patients and of the physicians who know about their cases. While the letter of July 17 states that the promoters of the drug have case reports attested to by licensed physicians, no such reports have yet been submitted to the Department.

The objective of our investigation will be to learn the full details on the manufacture, standardization, and control of Krebiozen; to obtain adequate samples for analysis; and to examine the complete reports on treated patients to arrive at a conclusion whether there is any scientific evidence to support the design and execution of a clinical trial. The investigation also will determine whether the drug is being distributed in accordance with the applicable regulatory laws.

If the drug is to continue to be sold, it will have to be licensed by the Public Health Service or approved as a new drug under the Federal Food, Drug, and Cosmetic Act. If it is to be continued as a drug for investigational use on human patients, it will have to comply with the requirements promulgated in accordance with the Kefauver-Harris Drug Amendments of 1962. These regulations provide that for drug investigations that were under way on August 10, 1962, the sponsor of the investigational program has 120 days from February 7, 1963, to gather and present to the Department the necessary information about the composition and identity of the drug, its preclinical investigations, the plan and results of clinical investigations carried out thus far, and a rational plan for the continuation of such investigations.

It is the Department's purpose to gather the clinical records on patients who are claimed to have been treated successfully, in an effort to answer definitely the question of Krebiozen's merit, and, at the same time, to assure that the distribution of this product comports with Federal regulatory laws.

February 1963.

[From CA–A Cancer Journal for Clinicians, 1962]

UNPROVEN METHODS OF CANCER TREATMENT

The following statement concerning Krebiozen, a preparation proposed for the treatment of cancer by Dr. Stevan Durovic and the Krebiozen Research Foundation, was recently distributed to the 59 divisions of the American Cancer Society for their information.

"KREBIOZEN

"Krebiozen is reported to have been originally produced by Stevan Durovic, M.D., a Yugoslavian physician, in Argentina, and brought to the United States in 1949. According to Dr. Durovic, the original 2 grams of powder, from which he said 200,000 doses were prepared, was obtained as an extract of the blood of 2,000 Argentine horses which had previously been injected with a sterile extract of Actinomyces bovis, a micro-organism which causes a disease called lumpy jaw in cattle. In October 1960 Dr. Durovic was quoted in newspapers as stating that, during that year, he had made batches of Krebiozen in Illinois, each yielding about 250 milligrams (1/120 of an ounce), approximately 50,000 doses of the drug. He stated that analysis of the material showed it contained lilopolysaccharides, consisting of a mixture of six sugars, since reported to be galacturonic acid, galactose, glucose, glucosamine, arabinose and xylose, combined with a fat molecule. Dr. Durovic said that this was the same substance found by chemical analysis in his original batch of Krebiozen.

"Since mid-1959, a drug made in the same way as Krebiozen, but called Lipopolysaccharide C, has been prepared and studied by Dr. Andrew C. Ivy, professor emeritus of the University of Illinois, who has been interested in Krebiozen since 1949. According to Dr. Ivy, Lipopolysaccharide C, which he stated is the scientific name of Krebiozen, consists of a fatty substance conjoined with a substance containing several sugars, six of which have been identified. Different batches of the lipopolysaccharide are reported to have different strengths. Efforts are being made to produce this substance synthetically.

"Three organizations have been primarily concerned with the production, use, and distribution or sale of Krebiozen. At present, Krebiozen is being distributed by Promak Laboratories, Inc., of Chicago. This corporation was originally organized as the Instituto Biologicao Duga of Buenos Aires, and later was known as the Duga Laboratories, Inc., of Buenos Aires and Chicago. It is owned by Dr. Stevan Durovic and his brother, Marko Durovic, a lawyer.

"The Krebiozen Research Foundation, Chicago, Ill., is registered in the State of Illinois as a nonprofit corporation. It furnishes Krebiozen to physicians who request it for investigational use. According to the foundation, patients treated with Krebiozen are requested, through the physician who obtains it, to make a contribution to the Promak Laboratories which supplies the drug.

"The Ivy Cancer Research Foundation, Chicago, Ill., was incorporated as a not-for-profit corporation on March 4, 1959. In a fund-raising brochure, distributed in 1960, it is stated that: 'The foundation is dedicated to furthering research conducted by Dr. Andrew C. Ivy and others whose projects may be approved by the foundation, on the use of Lipopolysaccharide C.'

"Several other organizations and individuals have been active in disseminating information about, and seeking to arouse interest in, Krebiozen as a treatment for cancer.

"Preliminary results with Krebiozen as a treatment for cancer were first announced, both to the medical profession and to the public, at a meeting called for this purpose at the Drake Hotel in Chicago on March 26, 1951. Following this announcement, several medical centers were given small amounts of the preparation for experimental use. During the intervening 10 years, no scientifically acceptable report substantiating the usefulness of the drug has been issued.

"In September 1961 the Krebiozen Research Foundation and Dr. Andrew C. Ivy gave representatives of the National Cancer Institute a small amount of Krebiozen, reported to be 10 milligrams (1/3,000 of an ounce), together with an analysis of clinical data on 4,200 cancer patients. The National Cancer Institute studied these data. In March 1962, Dr. Kenneth M. Endicott, Director of National Cancer Institute, reported that he had notified Drs. Durovic and Ivy that more information must be provided before the decision could be made whether and how to test the preparation in human beings. The American Cancer Society hopes that acceptable scientific evidence concerning the value or lack of value of this preparation may be obtained without further delay for the information of physicians who have the responsibility for the treatment of patients with cancer.

"There is no evidence available to the American Cancer Society, up to the present, that demonstrates that Krebiozen is of proven merit in the treatment of human cancer."

[From the Chicago Daily News, July 18, 1963]

KREBIOZEN IS BIG MONEY

Although the American Medical Association has called it worthless, the promoters of Krebiozen have been distributing the drug on an experimental basis to many thousands of cancer sufferers. This has gone on for 14 years, aided by the promoters' wails of persecution by the medical trust. Organized medicine is thus painted as more willing to see people die of cancer than to concede success by an outsider. This is a contemptible libel.

Now that Federal action has halted the interstate distribution of Krebiozen, its backers have added the Food and Drug Administration to their list of alleged persecutors of the suffering. The Government had been trying to investigate the manufacture and distribution of this drug, as is its duty to safeguard public health. The thalidomide tragedy brought tighter laws to this end, and Krebiozen has been getting attention that it had escaped since its sensational and unprofessional announcement aroused false hopes throughout the world that a cancer cure was at hand.

The FDA investigation has turned up some astonishing information. Since 1950, about 1½ million empty ampules have been sold to Dr. Steven Durovic, the discoverer of Krebiozen. By the most generous interpretation of conflicting representations of the supply of Krebiozen available, it would be sufficient for a third that many ampules. The FDA agents complain that they get evasion instead of a satisfactory explanation of this discrepancy.

Many thousands of patients have received Krebiozen injections through their physicians, some paying hundreds of dollars in contributions at $9.50 an ampule. This potential actually runs into millions of dollars, and yet the books are as much a mystery as the substance itself. The FDA men assert that Dr. Durovic informed them that "as a European he deals in cash instead of checks and is not inclined to keep records."

Questioning Dr. Durovic or his associate Dr. Andrew Ivy is like trying to tie water

into a bundle, but it seems to us that this situation has gone on long enough without some solid answers.

Apparently it is intended to continue the distribution of Krebiozen as widely as possible, while urging the clientele to exert pressure for removal of the Federal restrictions.

The FDA report is crammed with complaints of the inability of its agents to obtain the information they need to appraise the identity, purity, strength, or the manufacturing process, or to arrange the "definitive test" that the sponsors keep saying they want but never cease haggling over terms of.

The history of Krebiozen is as fantastic as any ever entered among the colorful stories of medical marvels in this country. There are many testimonials from satisfied customers, but these are customary in this field. Krebiozen has been distinguished by the protection of some eminent figures in political and other fields.

By this time it would seem established that it does its patients no harm, but it is far from conclusive that it does them the slightest good. The Federal Government has restricted the area of Krebiozen's operation, but in view of the cloudy record and the potentially vast sums of money involved, some appropriate agency of the State ought to step in for the protection of the public.

[From the Chicago Daily News, Aug. 2, 1963]

UNITED STATES HINTS IT WON'T TEST KREBIOZEN—CITES MAKER'S REFUSAL TO LET INSPECTORS WATCH PRODUCTION

(By Arthur J. Snider)

The Federal Government has hardened its position on Krebiozen and strongly implied that a clinical test of the disputed cancer drug is not in the offing.

A letter to Dr. Stevan Durovic, manufacturer of the drug, stressed that his refusal to permit inspectors to observe production means that the Government cannot take the responsibility for administering Krebiozen to patients.

Presumably this injunction would cover a test situation or any other condition of the drug's use.

A copy of the letter to Durovic, written by the Department of Health, Education, and Welfare, was read before the organization meeting of the newly formed Illinois Krebiozen Study Committee Thursday night.

The letter was signed by Boisfeuillet Jones, special assistant for health and medical affairs.

Jones noted that Durovic had withdrawn Krebiozen from investigational study in the United States and added:

"You have indicated that your request still stands for a clinical test by the National Cancer Institute.

"You have refused, however, to meet the reasonable and necessary conditions for such a test. These conditions have been made known to you repeatedly."

The study committee expressed concern that a drug barred in all other States was still being distributed in Illinois.

The committee was appointed by Gov. Otto Kerner to determine whether Krebiozen shall continue to be distributed in this State. However, no decision was made Thursday night to move against Krebiozen.

A statement at the conclusion of the 4-hour meeting in the Bismarck Hotel said:

"The committee concluded that study of applicable Federal and State statutes and regulations was necessary in order for it to reach a conclusion as to the reach of its study. The committee is greatly concerned as to its responsibility."

A second meeting will be held shortly, said Dr. Edward Piszczek, committee chairman.

The time and place will not be announced, he added, to forestall repetition of a gathering of Krebiozen supporters Thursday night.

The meeting was addressed by three top Government officials from Washington.

They were Dr. Linton Rankin, Assistant Commissioner of the Food and Drug Administration; Dr. Waldo Edelman, medical officer of the Bureau of Medicine, FDA, and Dr. Carl Baker, associate program director of the National Cancer Institute.

It was learned that an analysis of the case histories assembled thus far, looking to a test of Krebiozen, showed no positive results against cancer.

In addition, there were side effects recorded in many of the patients who received the drug, the officials said.

[From the Chicago Daily News, July 22, 1963]

ON AND ON WITH KREBIOZEN

Elsewhere on this page we print a letter from Dr. Stevan Durovic in which he attempts to explain the discrepancy involved in his purchase in 1950 of 1,330,000 ampules and the fact that the claimed supplies of Krebiozen were sufficient at the most optimistic estimate to fill only one-third that many. He says the excess ampules were defective, that he destroyed them in 1963, and that he has a receipt to prove it.

This explanation, like nearly everything else connected with Krebiozen, rests upon the statement of the Durovic brothers. They abound in explanations. As we said, looking for the truth in this controversy is like hunting a gray cat in a fog.

There would have been one sure way around all this. It would have been to invite reputable scientists to observe the manufacture, processing, and analyzing of Krebiozen, and to cooperate in the testing. The polio vaccines, insulin, the sulfa compounds, antibiotics, and innumerable other drugs had no trouble in getting a welcome from the medical profession.

Instead, Krebiozen was proclaimed with brass trumpets in a way that repelled respectable researchers—but created an instant worldwide demand. Dr. Durovic made it clear that he wanted to recover his investment in the discovery of Krebiozen, which has been represented as high as $2 million.

In the battle of affidavits, there was one from an Argentine financial associate of Dr. Durovic there, who said that the investment consisted of 15 bulls at a net cost of 682 pesos.

We do not profess to know what Dr. Durovic spent in developing Krebiozen, or how many ampules have been filled and distributed at $9.50 an ampule. We never expected to learn. Indeed, doubts persist that there is any such substance as Krebiozen. Two distinguished microchemists of the University of California and Stanford reported that after the most exhaustive tests they could extract nothing from Krebiozen ampules except mineral oil.

What we do know is that after an investigation which had to overcome a discouraging succession of evasions, delays, and doubletalk, the Food and Drug Administration of the Department of Health, Education, and Welfare has forbidden interstate distribution of Krebiozen. Inasmuch as Krebiozen has had the intercession of the powerful Senator PAUL H. DOUGLAS it is safe to assume that the FDA did not act hastily.

As long ago as 1959, after trying hard to make sense from the controversy, the American Cancer Society pointed out the duty to thousands of cancer patients to obtain a clear verdict on the drug that would be acceptable to the scientific community, and added: "Delays are now clearly the responsibility of the Krebiozen Foundation."

It is the opinion of the Daily News that more than ample opportunity has been afforded to prove that Krebiozen is a blessing, and that the time has now come to examine the possibility that the whole thing might be a monumental mockery.

[From the Chicago Daily News, July 22, 1963]

LETTERS TO THE EDITOR—KREBIOZEN CONTRADICTION

In answer to your editorial in the Chicago Daily News of July 18, I am enclosing affidavits of myself and my brother submitted in Federal District Court in Chicago to correct the indirect accusation of the Food and Drug Administration that I filled and distributed 1,330,000 ampules even though the supply of Krebiozen was insufficient for this number of doses.

From these affidavits it can plainly be seen that of 1,008,000 ampules I bought in 1950, only 200,000 were filled and that the remainder of 808,000 was found unusable and destroyed.

You may or may not know the story of these ampules. Since it is a matter of public record you could have known it. The question of these ampules—and their disposition—was raised and answered in 1953 by a commission of the Illinois General Assembly in a way to discredit those who at that time made this false accusation against me.

It is certainly to be expected of a responsible editor that before repeating a thing of this kind, he will ascertain the truth or at least find out what the other side has to say on the matter. This you made no attempt to do, though you telephoned me last Monday to question me regarding our dispute with the FDA.

Your statement that Dr. Ivy and I have not collaborated with the FDA is simply untrue. Toward the end of May 1963 agents of the FDA completed a 4-month inspection of the Krebiozen Research Foundation and my laboratory. They came to inform me that their report was favorable and to thank me for my full and cordial cooperation.

Eight days later, on Saturday, June 8, these agents returned stating that their Washington superiors had refused their report as unsatisfactory (on what grounds they did not say) and that they were instructed to begin a new inspection. On the same day they tried to get fraudulent pictures and exerted unheard of pressure on me toward this end. This matter is now pending before the Federal District Court in Chicago.

I realize that in the eyes of our adversaries Krebiozen represents, as you say, "big money," and their failure to get what they demanded as the price of clearance for Krebiozen is the root of all the controversy over this drug. However, I may say that neither I nor any of those associated with Krebiozen have ever made any money out of this drug. On the contrary, my brother and I gave the drug free for experimental use for a period of nearly 6 years and when a new production of the drug became necessary we went into debt to finance it, as I told you in our telephone conversation.

Such contributions as we have had from patients were made with the express approval of their physicians on the basis of the patients' willingness and ability to defray the cost of treatment. These contributions have never been sufficient to cover production costs of the drug.

A newspaper not only has rights but also a duty to the public. Its first and most basic duty is to present the truth to the public. Therefore, I expect that you will correct the misinformation put forth in your editorial of today.

KREBIOZEN RESEARCH FOUNDATION,
STEVAN DUROVIC, M.D., *Director*.
CHICAGO.

[From the Chicago Daily News, July 30, 1963]

INVESTIGATING KREBIOZEN

Senator PAUL H. DOUGLAS' intervention to head off a study of the controversial drug Krebiozen by the State of Illinois adds a bizarre twist to what was already a long, strange story.

And not the least bizarre aspect was DOUGLAS' opinion that the question of Krebiozen's efficacy "should be decided in the laboratory and in the hospitals and not by the medical politicians sitting high up in the quarters of the American Medical Association." The members and officers of the AMA are trained medical scientists, after all. And we wonder how DOUGLAS could have kept a straight face when he called them politicians.

What is involved here, however, is far more serious than the carefree bandying about of mild epithets.

Krebiozen was introduced by its promoters 14 years ago in a welter of publicity that aroused hopes that a beneficial agent for cancer treatment had been found.

Grave doubts have since been expressed that Krebiozen is of any use whatever in the treatment of cancer. Two west coast microchemists tested Krebiozen ampules and reported they could extract nothing from them but mineral oil. Recently the Food and Drug Administration of the Department of Health, Education, and Welfare forbade interstate distribution of the drug.

This did not outlaw its distribution in Illinois, however, and last Friday Governor Kerner ordered an objective State investigation of the drug by the departments of public health and public safety, assisted by an outside team of scientific experts.

That was when DOUGLAS, a long-time champion of Krebiozen's sponsors, stepped in to procure the delay.

It is to Kerner's distinct credit that the roadblock came down shortly after it went up.

On Monday the Governor, public health Director Dr. Franklin D. Yoder, and public safety director Joseph E. Ragen jointly announced creation of a nine-man Illinois Krebiozen Study Committee for "controlled scientific testing" of the drug.

If DOUGLAS had in mind the permanent sidetracking of the study he was, manifestly, unsuccessful. And the caliber of the committee's membership—including Past President Albert E. Jenner, of the Illinois State Bar Association and Edward Spacek, a partner in a distinguished accounting firm, as well as seven eminent medical men and educators—suggests that politics will be kept at arm's length while the study goes on.

The matter is of vital importance—and we think Senator DOUGLAS missed the point completely when he said that "everyone admits that Krebiozen is nonharmful and nontoxic." That isn't enough. If cancer sufferers take a harmless but ineffectual drug in the supposition that it is helping them, the drug is a long way from harmless. In replacing a beneficial course of treatment, it could well prove disastrous. That is why a scientific determination should be made, as promptly as reasonably possible.

[From the Chicago Tribune, July 30, 1963]

DR. PISZCZEK TO HEAD STUDY OF KREBIOZEN—CALLS GROUP TO FIRST MEETING THURSDAY

(By Percy Wood)

Dr. Edward A. Piszczek was named chairman yesterday of the new Illinois Krebiozen study committee and last night called the group to its first meeting Thursday night in the Bismarck Hotel. Piszczek is president-elect of the Illinois State Medical Society, which proposed the study.

His appointment and those of eight associates were announced in Springfield by Dr. Franklin D. Yoder, director of the State department of health, and Joseph E. Ragen, director of the department of public safety.

NEW CHAPTER BEGUN

The creation of the committee, which was approved by Governor Kerner, opens a new chapter in the long history of the controversial cancer drug. Although its discovery was announced in March 1951, Krebiozen has not yet had the sort of controlled test of its effectiveness being advocated by Senator DOUGLAS (Democrat, of Illinois). On July 18, DOUGLAS introduced a joint resolution, with other Senators, calling for an immediate test by the National Cancer Institute in Bethesda, Md.

Kerner mentioned the Douglas resolution in a paragraph of yesterday's announcement, saying that controlled scientific testing, as proposed by Senator DOUGLAS, would contribute much needed further information in this area. Both the State committee and the proposed Federal action would complement each other.

SENATOR DOUGLAS DISAGREES

But a spokesman for DOUGLAS in his Chicago office said the Senator believes that any hearings in Springfield or Chicago would merely be a compilation of opinions of various people.

Yoder's and Ragen's announcement stated, however, that the Illinois study will receive the full cooperation of the U.S. Public Health Service, its National Cancer Institute, and the Food and Drug Administration of the Health, Education, and Welfare Department.

LIST OTHER MEMBERS

Named to serve with Dr. Piszcek were Dr. Lowell Coggeshall, vice president for medical affairs of the University of Chicago; Dr. Warren Cole, head of surgery at the University of Illinois College of Medicine; Dr. Edwin F. Hirsch, Chicago pathologist; Dr. Alexander Karczmar, Stritch School of Medicine; Dr. Paul Holinger, chairman, board of governors of the Institute of Medicine of Chicago; Albert E. Jenner, former president of the Illinois State Bar Association; Dr. Hyman Zimmerman, Chicago Medical School; and Leonard Spacek, managing partner of Arthur Andersen, Chicago accountants.

Dr. Cole was chairman of a committee of medical experts who studied Krebiozen in 1952 and rejected claims that it was beneficial in cancer treatment.

PHILIP L. GRAHAM

Mr. SMATHERS. Mr. President, of course, the entire Nation was shocked and bereaved to learn of the untimely and unfortunate passing of Philip Leslie Graham, for it meant the loss to the Nation of a great mind, a great patriot, and a great citizen. I am sure that of the many thousands of people who knew him, without exception all of them realized that Phil Graham had as fine an intellect and as pure motivation as any man of his time. His capabilities were so enormous that truly he could have become preeminent in several differing careers.

Phil became best known, of course, as the publisher of the Washington Post and Newsweek magazine, and as the owner of the radio and television station WJXT in Jacksonville as well as other allied communications media.

However, Phil Graham was also a splendid lawyer even though he never practiced law in the ordinary sense of the word. He graduated from Harvard Law School with one of the highest scholastic records ever achieved. He came to Washington at the request of Justice Felix Frankfurter as his law clerk. There is no question but that he would have had a brilliant career had he decided to stay in the law, but having married the lovely and talented Kay Meyer during World War II, he was persuaded to leave the legal field and took his considerable talents into the newspaper business.

By virtue of his labors, Phil Graham achieved many outstanding accomplishments. Most recent, the President of the United States appointed him as chairman of the Telstar Corp, under authority of an act passed by the Congress. Phil had earned the respect and confidence of Presidents Truman, Eisenhower, and Kennedy—all of whom had called on him for counsel and assistance. Probably there is no private citizen of contemporary America who had achieved such renown and respect from people of great influence and prominence as had Phil Graham.

Much has been said, and much has been written and will be written, with respect to his accomplishments and impact upon our national life. However, I would like to take just a moment to recount more personal and intimate observations about Phil Graham. It was my privilege to know him as far back as 1925.

I knew Phil's mother, a lovely, sympathetic and intelligent lady. I knew his father who became the State senator from our county of Dade and later was a candidate for Governor of Florida. Senator Ernest Graham was a man always interested in public affairs and he made a strong imprint on Florida politics for many years. Because of his father's activities, Phil developed a keen interest in politics and as a result became one of Miami High School's best debaters while still at the youthful age of 14. Phil was not particularly vigorous or strong physically in those early days, but all those who were a little stronger physically but not quite so strong mentally, that is, those on the various athletic teams, loved and admired Phil Graham because of his warm personality and his ready, friendly wit.

From Miami High School, Phil Graham went to the University of Florida, where it was later my privilege to join the same fraternity, to live in the same roominghouse, and to graduate with him in 1936. Needless to say, our association became very close and very warm during these happy years.

Upon graduating from academic school Phil matriculated at Harvard Law School while I remained at the University of Florida Law School. However, we have remained close friends throughout the years, as indeed Phil remained friendly with those others in our particular circle at the University of Florida.

During the many years of knowing Phil Graham, I never saw him deliberately do an unkind thing. I never knew a man who was more tender, nor more concerned about the feelings of his fellow man than Phil Graham. I never met a more generous or thoughtful person when it came to dealing with his friends than Phil Graham. While he could be all this, he nevertheless could be a formidable opponent in a debate or in an athletic contest or in a fight, but he at no time ever displayed any pettiness, meanness, or for that matter, selfishness.

As a matter of fact, if Phil had any fault or any weakness, I think it would be that of being too greatly concerned about the problems of other people, and of all humanity, and he resented and

brooded over the fact that he could do nothing about many of them. Frequently, he ignored and neglected some of his personal duties in order to go out of his way to be helpful and kind to those who were in trouble and needed assistance. This was his character from 1925 until the present time. I think it was probably this characteristic which had much to do with his unfortunate passing, for he was sensitive in the extreme, and as life's pressures and demands moved in on him, this sensitivity, this desire to be helpful to all people and to do all things, figuratively speaking pulled him apart.

But, Phil Graham, throughout these agonizing moments of trying to do more than he was physically capable of doing, never ceased to be a leader, a benefactor, a loyal husband, and an indulgent and thoughtful father.

None of us, of course, will miss Phil more than will his lovely family. We all admire and respect his wife, Kay; and certainly our hearts go out to her. I have been privileged to know his marvelous children. I have known Lolly Graham almost throughout her life. For his fine son, Donny, I foresee a brilliant future. I know his two younger sons to be fine young men although I do not know them personally.

These are sad days for all of them. These are sad days for his father, his sister Mary, his brothers, Bill and Robert—as well as for all of us who have known Phil intimately for years.

And of course it is a sad day for the Nation, for the Nation cannot afford easily to lose such a great man, a great heart, and a great patriot. That was Phil Graham.

Mr. TALMADGE. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield to the Senator from Georgia.

Mr. TALMADGE. I am grateful to the Senator from Florida. I desire to associate myself with the remarks of the distinguished Senator from Florida. It was with a great deal of sadness that I learned of the unfortunate death of Phil Graham. He was one of the first gentlemen I became acquainted with subsequent to my election to the Senate. The first time I ever met him I was having lunch with him, along with the distinguished Senator from Florida and also one of my warm friends and distinguished constituents, John Stembler, who roomed with the late Phil Graham and the Senator from Florida while they were all attending the University of Florida.

Phil Graham was a man of extremely high ideals. He had a brilliant mind. He was a man of great courage, great charm, and great warmth. His passing is a distinct blow to our country.

I join his family and his many friends in deeply mourning his passing.

Mr. HOLLAND. Mr. President, it was with deep regret that I learned of the untimely death of Philip L. Graham, president of the Washington Post Co. and chief executive officer of Newsweek magazine. I was particularly grieved because Mr. Graham was a former resident of Florida and the son of my longtime friend and former colleague in the Florida State Senate, Ernest R. Graham.

The Washington Post Co. acquired an active interest in the communications field in Florida, during Phil Graham's lifetime, through ownership of television station WJXT in Jacksonville.

Phil Graham grew up in Miami, although he was born in Terry, S. Dak. We in Florida have always regarded him as a Floridian, since he graduated from Miami Senior High School in 1931 and the University of Florida in 1936. While at the University of Florida, he was a classmate of my distinguished colleague, the junior Senator from Florida [Mr. SMATHERS].

Phil Graham later received his law degree from the Harvard Law School and in 1939 he came to Washington where he served as law clerk to former Supreme Court Justices Stanley Reed and Felix Frankfurter. He was a brilliant newsman, a highly capable business executive, and a distinguished American, whose contributions to our Nation were many and important.

In his years with the Washington Post, Philip Graham made a major contribution to the American press. He built the Washington Post into a major editorial force in the Nation. The death of Philip L. Graham is a loss to his adopted State, to the Nation, and the world.

Mr. President, my heart is heavy for all members of the Graham family—for his father, his brothers, Bill and Robert, his sister, Mary, for his widow Kay, and their fine children, and for all those who were associates of this brilliant young man. Mrs. Holland and I extend our deep and affectionate sympathy to all members of his family.

Mr. KEFAUVER. Mr. President, Washington and the Nation have lost a fine citizen in the passing of Phil Graham. It is with a deep sense of personal loss that I learned of his tragic death, for I valued his advice and counsel on many difficult problems.

His newspaper reflected Phil Graham's untiring willingness to battle for just causes and even though we might have differed with him from time to time on some issues, we could never doubt his earnest sincerity and devotion to the public interest.

Indeed, the disagreement that is one of the greatest attributes of our system of free government was exemplified by Phil Graham in his unflagging pursuit of answers to the vital issues of our troubled world.

I know of no one more widely appreciated, not only for his work, but as a man.

Mr. McGOVERN. Mr. President, the death of Mr. Philip L. Graham deprives society of a rarely endowed personality.

His leadership of the Washington Post has been at the center of the unique influence which this paper exerts on our national life. After assuming the ownership and direction of Newsweek magazine, Mr. Graham also made the range of his talent apparent in that respected publication.

He has been a valuable counselor to influential public figures and to his associates and friends.

I share a personal sense of loss in Mr. Graham's death. At an uncertain moment in my career, he offered counsel that gave me the courage to attempt a second race for the U.S. Senate.

He was born in a little mining community in the Black Hills of South Dakota. Although his residence there was limited to his early boyhood, he returned to South Dakota for part of his service during World War II. His South Dakota birth is a source of pride to my State.

One of the paradoxes of life is that those among us who think most deeply and feel most sensitively often carry the burden of a troubled spirit.

May providence rest the soul of Phil Graham and give consolation to his lovely wife, Kay, his children, and his many friends.

Mr. JAVITS. Mr. President, I join with all my colleagues, I know, in mourning the loss of Phil Graham. I knew him quite well. He was a distinguished newspaperman, a public-spirited man who gave to everything he undertook his whole heart and mind. He rendered distinguished service with the Washington Post, one of the country's outstanding newspapers because of him. He was close to Eugene Meyer, the longtime owner and publisher of the Washington Post, and an old friend of mine.

I was very well acquainted with him. I also am well acquainted with and pay my deepest sympathy and condolences to Mrs. Katharine Graham, who survives him, and to his children.

We shall miss him. He was a great figure. We deeply mourn his untimely passing.

I ask unanimous consent that the obituary notice published in Newsweek, which Phil Graham directed in his later years, be printed in the RECORD as a part of my remarks.

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

[From Newsweek, Aug. 12, 1963]

PHILIP L. GRAHAM, 1915–63

A few short months ago, Philip Leslie Graham, the controlling voice and informing spirit of this magazine, spoke about himself to a group of Newsweek editors and correspondents. "I came to journalism quite by chance," he said, "from another ancient and honorable calling—that of the law. It is said—in explanation of the inner torment of that minority of very good lawyers—that the law is a jealous mistress.

"No doubt that is a true statement of what stretches good men who engage in any precariously intellectual vocation. When I think of a few serious journalists I have known, I know that the jealous demands of excellence in our calling have borne down on them heavily and deeply while also elevating and enlarging them.

"I am insatiably curious about the state of our world. I revel in the recitation of the daily and weekly grist of journalism.

"Much of it, of course, is pure chaff. But no one yet has been able to produce wheat without chaff. And not even such garrulous romantics as Fidel Castro or such transcendent spirits as Abraham Lincoln can produce a history which does not rest on a foundation of tedium and detail—and even sheer drudgery.

"So let us drudge on about our inescapably impossible task of providing every week a first rough draft of a history that will never be completed about a world we can never understand."

To the many who will hold his memory dear, this is pure "Phil." When he spoke, he

had a wit which could dissolve pomposity and lighten tedium; a high seriousness which could endow the most trivial problem with dignity; a certitude that stemmed from an instinct for the highest standards; a sympathy which extended to the great and to the weak alike. He was always electric, with a kind of complex, stormy humanity that somehow led him, last Saturday afternoon, to take his life at his farm in Virginia, just a short drive from Washington, D.C., where his career in law and letters began.

Washington was Mr. Graham's city. It was there, in 1940, that he married Katharine Meyer, daughter of the late Eugene Meyer, who then owned the Washington Post. It was there they raised their four children. In the 23 years he lived in Washington, he saw it change from a national capital which was just one among many to the prime center of political, economic, and military might in the world. When he visited Newsweek's weekly editorial meetings in New York, he always conveyed a sense of high excitement about the power and responsibility that he lived with.

Mr. Graham came to Washington by way of Terry, S. Dak., where he was born, Florida, where he grew up and went to high school and college, and Cambridge, Mass., where he attended Harvard Law School and became president of the Law Review. This distinction led him to serve as law secretary to both Justice Stanley Reed and Justice Felix Frankfurter. In 1946, Mr. Graham became publisher of the Washington Post. Behind him were 4 years in the Army and a Legion of Merit for his service in the Pacific.

Working with Mr. Meyer, Mr. Graham built the Post into one of the most prosperous and influential newspapers in the country. Though he had no journalistic experience before, he had a natural and extraordinary feel for news, as well as a business sense which led him to a widening series of ambitious and successful ventures. A new plant for the Post was built in 1951, the Times-Herald was purchased, a radio and television division was established, and in 1961 Newsweek was added to the organization. More recently Mr. Graham acquired Art News and Portfolio and launched a news service with the Los Angeles Times.

But these activities consumed only a part of Mr. Graham's restless energies. Over the years he gave himself to a great variety of private and public causes. In an unofficial way he plunged deeply into the political and diplomatic life of the Nation. To list his friends in Government—not to speak of business, the professions, and the arts—would be to sound a rollcall of almost all who are distinguished in American life. Informed of his death as he cruised on the *Honey Fitz*, President Kennedy made this statement: "The death of Philip Graham is a serious loss to all who knew and admired his integrity and ability. It is a personal loss to me and all of his friends. He was a distinguished publisher, a man whose quiet and effective leadership contributed so much to his community and his Nation. He will be greatly missed by all of us."

Philip Graham will be missed by all, but there is a special poignance to the grief of those who knew him long and intimately. As the Washington Post, which was so much a part of his life, said: "Mr. Graham invested the full capacity of his mind and heart in anything that deeply moved and interested him. He was not a person given to qualified commitments to his country, his enterprise, or his friends.

"Our sense of loss is total; he was a man neither easily forgotten nor found again."

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

Mr. JAVITS. I yield to my colleague.

Mr. KEATING. I join my colleague from New York in expressing sadness over the death of Phil Graham. He was a good friend. He was a man of tremendous charm and high ideals. He was also a dynamic and courageous individual who fully understood the precious value of dissent in a free society. His death in the prime of life cut short a truly brilliant career. He has made a contribution to our national thinking and our national press that will be felt for years to come. Never fearing controversy, always seeking to enlighten and inspire, he offered an example of dedication to public service even as a private citizen.

A man of deep sincerity, outstanding human kindness, and brilliant intellect, he will be sorely missed in Washington and throughout the country. I join his many friends in expressing heartfelt sympathy at the tragic loss.

I ask unanimous consent that a fine editorial from the New York Herald Tribune may be printed at this point in the RECORD.

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

A VITAL PUBLISHER PASSES

The tragic death of Philip L. Graham is, of course, a great loss to his family, friends, and to his associates in his publishing enterprises. More, it has removed from the American journalistic scene a vital figure, one who demonstrated that in the press are great resources of growth and fruitful change that can be tapped by a leader with energy and imagination.

By that proof, in his direction of the Washington Post and Newsweek as well as in syndicate and television ventures, Mr. Graham made a distinct contribution. His concern for political and civic affairs, too, revealed a breadth of interest that promised much for the future. It is a matter for national regret that such a career, for all its achievements, should have ended when so much of its fulfillment still lay ahead.

TRIBUTE TO JOHN D. RHODES UPON HIS RETIREMENT AS OFFICIAL REPORTER OF DEBATES, U.S. SENATE

Mr. BYRD of Virginia. Mr. President, I regret the fact that I was unable to be on the floor of the Senate on July 31 when my friend John D. Rhodes retired from his position as senior member of the Official Reporters.

I shall miss him here in the Senate; but I hope to see him frequently elsewhere because I value his friendship which has been my pleasure for 30 years.

A man who has served the Senate so well for 44 years richly deserves retirement, but the Senate had come to rely on his genius for disentangling grammar; distinguishing the thoughts and ideas of our discourse; and fitting them into their proper place.

I wish to be counted among those who appreciate John Rhodes for his true worth, for his knowledge and insight, and for his indulgence and kindly wit.

I like his allegiance to the Senate and his dedication to serving it. He is a man who has always kept his feet steady on the rock of duty, but with great capacity for the respect of tradition.

He is a man who by experience, temperament, and disposition was the master of his profession; but to his professional duties he added a native appreciation for the harmonies and resources of speech.

John Rhodes came to the Official Reporters staff during the administration of Woodrow Wilson. My fondness for him started on the day I reached the Senate; and our friendship has grown steadily from that day to this.

My respect for his ability is founded on the knowledge that Senator Furnifold Simmons, of North Carolina, when he was chairman of the Senate Finance Committee, chose John Rhodes to report the hearings on revision of the tariff laws of that era.

I should like to take this opportuunity to express my appreciation for the fine work of all of the Official Reporters and their staff associates. I never cease to marvel at the excellent work they do.

As for John Rhodes, all of us in the Senate will miss his keen intellectual interest in matters before the Senate. Personally, as a Member of the Senate, and as chairman of the Finance Committee, he has my very best wishes for the pleasures of good health in the retirement he has so manifestly earned.

UNDOING A FRAUD

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to have inserted in the body of the RECORD an editorial entitled "Undoing a Fraud," by David Lawrence, as it appeared in the August 12, 1963, edition of U.S. News & World Report.

I think this is an editorial which should be read by every Member of Congress and every citizen of the United States.

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

UNDOING A FRAUD

(By David Lawrence)

Few people realize that both Houses of Congress can at any time, by a majority vote, pass a resolution which would have the effect of declaring that the so-called 14th amendment is not a part of the Constitution. Such a joint resolution would not require the President's signature and would not even have to be submitted to the State legislatures.

This is the paradoxical status of the amendment which in 1868 was declared by resolution of Congress to have been legally ratified, when in fact it was not. Ohio and New Jersey were counted as having ratified the amendment, but actually each had withdrawn an earlier resolution of ratification and had adopted instead a formal resolution rejecting the amendment.

The Supreme Court of the United States has repeatedly refused to pass on this fraud. It ruled as recently as 1939, in the case of *Coleman* v. *Miller*, that disputes over ratification or rejection are political questions with which Congress alone can deal.

The facts in this strange sequence of events are perhaps best stated in a communication just prepared, after careful research, by an eminent lawyer, Everett C. McKeage of San Francisco. He was for 4 years a judge of the superior court there, and later general counsel and for two terms president of California's Public Utilities Commission, of which he is still a member. He is active in the American Bar Association. He writes to this editor as follows:

"In recent days, I have undertaken to review the acts of the Congress and also

the proclamations of the Secretary of State and of the President of the United States with regard to this matter of the asserted ratification of the 14th amendment. The whole story is set out unequivocally in 15 United States Statutes at Large, at pages 700 to 711. The documents which appear in the United States Statutes at Large are documents of which all courts, Federal and State, must take judicial notice. Upon the face of these documents, it is clear and unequivocal that the 14th amendment was never lawfully adopted.

"This conclusion of mine assumes for this purpose that the asserted ratifications by the 'carpetbag' governments of the Southern States were valid ratifications. However, we know that these 'carpetbag' governments were not the lawful governments of the Southern States at that time and we also know that the Reconstruction Act of March 2, 1867, required that the Southern States must ratify the 14th amendment as a condition precedent to readmission into the Union. This requirement was unlawful and void, as any constitutional lawyer would conclude, and made such ratifications unlawful. The Supreme Court of the United States, in the case of *Texas* v. *White*, held that the Southern States were never out of the Union and, therefore, it could not be said that they were 'readmitted' to the Union. But, swallowing all of this fraud and corruption, the official records, to which I have referred, clearly reveal that the 14th amendment was not lawfully adopted.

"At the time that the 14th amendment was adopted, there were 37 States in the Union, including the 11 Southern States. Therefore, three-fourths of that number would be 27.75. Thus, it would require the ratification by 28 States to adopt the 14th amendment. On the 20th day of July 1868, the then Secretary of State, William H. Seward, pursuant to a request by the Congress, issued a proclamation with regard to the status of the pending ratification of the 14th amendment. The Secretary of State stated that 23 States had ratified the amendment and that 6 of the Southern States, by their newly established governments, had ratified the amendment, making a total of 29 ratifications.

"However, and this is most important, the Secretary stated that the States of Ohio and New Jersey, which had theretofore ratified the 14th amendment, had subsequently withdrawn their ratifications. He pointed out that if these withdrawals by Ohio and New Jersey were valid, then the 14th amendment had not been adopted, but that if these withdrawals were unlawful and invalid, the amendment had been adopted.

"On the 21st day of July 1868, the Congress, by joint resolution, arbitrarily resolved that the 14th amendment had become a part of the Constitution of the United States and directed the Secretary of State to so proclaim. Obviously, the Congress proceeded upon nothing more than the information contained in the proclamation made by the Secretary of State which was furnished to the Congress on the previous day (July 20, 1868).

"The contention has been made that New Jersey and Ohio did not withdraw their ratifications of the 14th amendment until after a sufficient number of States had ratified the 14th amendment—three-fourths of the States—and had thus made it a part of the Constitution. This contention is refuted by the first proclamation of Secretary of State Seward. It was then that Congress arbitrarily resolved that the 14th amendment had been adopted, and instructed the Secretary of State to proclaim that fact.

"At pages 708 to 711 of 15 United States Statutes at Large appears this first proclamation of July 20, 1868, which shows, at page 710, that the State of New Jersey ratified the 14th amendment September 11, 1866, and withdrew that ratification in April 1868.

"Also, at page 710, the same proclamation of the Secretary of State shows that the State of Ohio ratified the 14th amendment January 11, 1867, and withdrew that ratification in January 1868.

"Also, at the same page, the Secretary of State's proclamation shows that the State of Iowa ratified the amendment April 3, 1868; Arkansas, April 6, 1868; Florida, June 9, 1868; Louisiana, July 9, 1868, and Alabama, July 13, 1868.

"So, it will be seen that the required number of States had not ratified the 14th amendment—including both New Jersey and Ohio—at the time New Jersey and Ohio had withdrawn their ratifications.

"Including New Jersey and Ohio, the largest number of States claimed to have ratified the 14th amendment amounted to 29, 3 of which—Florida, Louisiana and Alabama—ratified the amendment long after the withdrawal by New Jersey and Ohio of their ratifications. All this is shown in these documents to which I refer appearing at pages 700 to 711 of volume 15 of United States Statutes at Large.

"These documents to which I refer are documents which the Supreme Court of the United States has held that courts will not go behind. All that the Supreme Court of the United States needs to do is to look at these documents which show on their face the fraudulent claim that the 14th amendment became a part of the Federal Constitution.

"There is a rule of law, not always adhered to by the Supreme Court of the United States, that courts will not go behind the official statements of the legislative branch of the Government but will accept the official statements as correct. However, this rule of law has the qualification that, if the invalidity of these official statements appears upon their face, the courts will so declare and so hold. All that any court has to do is to review these public documents, and the conclusion will be inevitable that the 14th amendment was not lawfully adopted.

"The Supreme Court of the United States has never said that this amendment was lawfully adopted. What it has said is that it will assume, without deciding, that the amendment was adopted. The Court has further held that the question as to whether or not the amendment was adopted is a political one with which courts will not interfere."

Mr. McKeage points out that in 1962 the Supreme Court, which has always ruled that apportionment of Congress and State legislatures was a political question, reversed itself and held that the courts have jurisdiction to interfere in such matters. He adds:

"Therefore, it is high time that the Supreme Court undertake to adjudicate this issue of the validity of the 14th amendment to the Federal Constitution.

"There is a well-recognized rule of law that, where several persons are about to undertake a matter, until the required number of persons have signed the undertaking to make it binding, those who have signed may withdraw, but they may not withdraw after the required number have signed. In other words, New Jersey and Ohio, lawfully, could withdraw their ratifications if the constitutional number of States had not ratified the 14th amendment at the time of such withdrawal.

"To illustrate: The whole number of States in the United States is 50. Three-fourths would be 37.5, requiring 38 States to ratify a constitutional amendment today. Assume that 30 States had ratified and that, before the required 38 States had ratified, 15 of those 30 ratifying States withdrew their ratifications. Would any reasonable man contend that the proposed constitutional amendment would be adopted if 8 more States should ratify the amendment, notwithstanding the fact that 15 of the 30 States referred to had withdrawn their ratifications?

"This was the situation with the 14th amendment, although the margin was much narrower but the principle was the same.

"I believe that people generally are becoming aware of the fraud that was perpetrated upon the American people by the Reconstruction Congress."

If Congress, therefore, by a majority resolution, can declare ratified an amendment that really hasn't been approved by three-fourths of the States, then repeal of such a ratification can, by a subsequent resolution of Congress, similarly be voted.

But rather it would seem logical and fair for Congress, by a two-thirds vote, to resubmit the 14th amendment to all State legislatures. When this is done, a blemish and disgrace in American constitutional history will be removed. We will then be able to present to the world the image of a Govment that does not condone fraud but even after nearly 100 years is willing to atone for its sin.

SPACE AGE IN HAWAII

Mr. INOUYE. Mr. President, as the newest State in our great Nation, Hawaii is considered by most Americans as the land that furnishes pineapples for their tables, a vacation spot to get away from the humdrum of their daily routine or the site of one of our mightiest military bases, Pearl Harbor.

The American people conceive of Hawaii as a land of lush vegetations, of brown-skinned men and women riding surfboards off sandy beaches on the rolling swells of the Pacific, of blue skies and warm tropical winds.

Rarely, however, is Hawaii's place in American industrial life, and the State's contribution to the country's space efforts considered, and it is with some pride that I point today to our new and growing arerospace industry.

The strategic location of the Hawaiian Islands in the geographic center of the vast Pacific Missile Range has opened up new scientific horizons for the Hawaiian people. Although numerous island companies, such as Hawaiian Telephone Co. with its interest in satellite communications and Hawaiian Electric's continuing concern with new power sources show great promise in the exploitation of space and science, today's major commercial link with the Nation's multibillion-dollar aerospace business is Kentron Hawaii, Ltd., a State of Hawaii chartered company with close family ties to Ling-Temco-Vought of Dallas, Tex., one of the acknowledged leaders in the Nation's aerospace industry.

Kentron has succeded in establishing a Hawaiian company which combines years of technical experience of its Dallas parent, Chance Vought, with the rapidly expanding scientific potential of the islands' people. In cooperation with local technical schools and the University of Hawaii, this organization has within the short span of 2 years been able to transform a small electronics repair facility into a multimillion-dollar aerospace company employing some 70 percent local island people and bringing

to the mid-Pacific the identical caliber of engineering services available anywhere in the Nation.

And, I am proud to point out that this Hawaiian organization plays an important and diverse role in space operations in the Pacific. As a prime technical contractor to the U.S. Navy-administered Pacific Missile Range, Kentron operates and maintains the all important National Aeronautics and Space Administration tracking station at Kokee Park on the island of Kauai. It was Astronaut Scott Carpenter who described the Kokee Station after the recent Gordon Cooper flight, "the best group in the best station of them all."

On this garden island of Kauai, the company also operates for the U.S. Navy its complicated fleet training center at Barking Sands. Moving westward to the Kwajalein Atoll, in mid-Pacific, Kentron is the technical contractor for the Pacific Missile Range facilities in support of the Army-sponsored Nike Zeus antimissile program. These activities include the technical communication services, the largest and most modern film processing center in the Pacific, a tracking control and instrumentation complex which extends to the outer islands of Ennylabegan, Gugeegue and Roi-Namur. In Honolulu the company maintains the only commercial primary type standards laboratory in the entire Pacific with precision directly traceable to the National Bureau of Standards. This facility serves the various National and State Government agencies and the mid-Pacific business community, including the calibration and repair of the vast complex of precise instrumentation required in the Pacific Missile Range.

Our new State is tuning in on this adolescent industry. The business planners are acutely aware of the necessity of supplementing the traditional economies of agriculture and tourism with more stable growth enterprises. The space/electronics field attracts the caliber of new residents that we desire. New emphasis is being placed on science and engineering in our educational institutions. In coordination with such companies as Hawaiian Telephone, Hawaiian Electric, Kaiser Industries, and Kentron, the island government is exploring the possibility of establishment of a research and development center which will exploit the advantages of Hawaii's geography, and natural environment.

In short, the people of Hawaii are actively participating in our Nation's space and scientific activities and look to the future with confidence that their State will play an ever-increasing role. I salute the new technical oriented youth of Hawaii and the spirit of aggressive cooperation with which Kentron Hawaii, Limited, has blended the high caliber of technical services supplied to the U.S. Government and industry for some 40 years by the Chance Vought Corp. with the inherent capabilities of our island people. Together they offer the Nation a new technical capability in the Pacific which holds great promise for the future economic development of the State of Hawaii.

MILWAUKEE SENTINEL CALLS FOR GREATER CONSIDERATION OF MONETARY EXPANSION TO STIMULATE OUR ECONOMY

Mr. PROXMIRE. Mr. President, recently the Milwaukee Sentinel carried a lead editorial calling for serious consideration of a proposal by Economist Beryl Sprinkel who is vice president of the Harris Trust & Savings Bank of Chicago for a moderate but steady expansion of the money supply.

Economists have argued for years that there is a logical correlation between economic growth and the availability of money or credit in any economy. In this credit economy of ours there is a conspicuous relationship between expanding economic activity on the one hand and on the other the capacity of businessmen to borrow to expand inventory and build and consumers to borrow to finance purchases of homes, automobiles, and other major purchases.

Certainly one important element in economic expansion is the availability of credit. Expansion of the money supply calculated to keep pace with economic expansion is one way of assuring that this credit will be appropriately available.

As the Sentinel points out in its excellent editorial, Mr. Sprinkel has found the relationship between the real—allowing for inflation—growth of gross national produce and the growth of the money supply in recent years has been remarkably close.

The Sentinel also stresses the wisdom in giving fuller consideration to the monetary route of economic stimulation instead of relying as exclusively as our Government now is doing in leaning on fiscal—or unbalanced-budget—policy to stimulate our economy.

Mr. President, I ask unanimous consent that the editorial from the Milwaukee Sentinel entitled "Money Cure," be printed in the RECORD at this point.

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

MONEY CURE

There is nothing wrong with the American economy that more money wouldn't cure. That goes for all of us, but it's not as silly as it sounds. Increasing the money supply—making more money—is being seriously advocated as a far better solution than planned deficits to the problem of economic stagnation that besets the Nation.

Senator PROXMIRE, Democrat, of Wisconsin, has called attention to a study made recently by Beryl Sprinkel, vice president of the Harris Trust & Savings Bank of Chicago, which argues for an increase in the money supply as the way to get the country moving again.

The study details startling correlation between percentage increase in the money supply and the increase in the real gross national product between 1955 and 1960, as follows:

Percent of increase

	Money supply	*GNP*
Japan	13.7	11.3
Italy	10.5	7.6
Germany	10.2	9.2
France	9.9	10.8
Canada	3.4	5.8
United Kingdom	2.1	5.7
United States	.9	4.9

Talk of increasing the money supply sounds like printing money, mention of which conjures up the specter of inflation.

The study, PROXMIRE hastens to emphasize, discounts the need to fear inflation.

The study found no correlation between the increase of money supply and the cost of living. Japan had the biggest increase in money supply and a relatively moderate increase in cost of living. France had the largest increase in the cost of living and about an average increase in money supply.

An expansion in the money supply now would not raise a serious inflation threat, the study contends, primarily because of the existence of substantial excess productive capacity. Once the economy approaches full employment of resources, according to this theory, excessive monetary growth would then clearly be an inflationary force.

Sprinkel concludes in his study that the degree of new money financing of the prospective deficit should be sufficient to permit an annual growth rate in the money supply of from 3 to 5 percent under present economic circumstances.

PROXMIRE stresses what the study points out, that this is one kind of economic stimulation achievable without requiring the painful process of executive recommendation and congressional action. The Federal Reserve Board, he says, could act as a very important stimulant of our economy by increasing the money supply.

Enough of a case for monetary expansion has been presented by PROXMIRE to deserve fuller and wider attention. The reason why this monetary supply policy has not attracted much public notice probably is that, unlike a tax cut or a Federal handout, it is a remote political measure that doesn't touch the voting nerve. But if it is as sound a remedy as it is purported to be, it should not be kept from our sick economy just because political benefits from it may be obscure.

COMPETITION AND THE NATIONAL ECONOMY

Mr. MORTON. Mr. President, on June 5, I testified before the special subcommittee of the Senate Commerce Committee holding hearings on the quality stabilization bill.

At that time I said:

You probably will be told by expert theorists that enactment of this quality stabilization bill will mean the substitution of arbitrarily fixed prices for open competition. Somehow or another these witnesses are able to do an 180° turn in their thinking when it comes to the quality stabilization bill. They will admit that free and open competition is a wonderful workable concept that has given the people of this Nation the best standard of living ever, but that in some strange fashion the same requirement of free and open competition upon which use of this bill is predicated means nothing.

These theorists should serve for only a few hours in the sales and marketing departments of a couple of our famous brand name manufacturers. They would be amazed at the intensity of competition between our famous brand name products.

Let's get down to basics. No manufacturer can afford to ignore competition. And the American consumer is blessed because of this. In our free competitive society, no one is forced to buy from any company. No competitive business has the power to compel anyone to trade with him.

If one company is asking excessive prices for the quality it gives in its product, it's an invitation to the world—in the literal sense—for the development of a new or cheaper product that can replace the more

expensive one. The important consideration is that no one be prevented from developing new products and services.

As a practical matter, all businesses are compelled to provide the best possible goods and services—in order to obtain enough customers to make a profit. That's the key to our economy. That's the incentive.

Former President Eisenhower discussed this important concept of profits. He said: "When shallow critics denounce the profit motive inherent in our system of private enterprise, they ignore the fact that it is an economic support of every human right we possess and without it, all rights would soon disappear."

The Quality Stabilization Act won't stifle competition. It will promote it. It will help eliminate predatory competition that destroys profits for the smaller businessman. It will help keep the small businessman in business so that monopolies will not develop. The quality stabilization bill is anti-monopoly.

My attention has been called to Forbes magazine of June 15, particularly its column "Side Lines," which I feel largely substantiates, by the citing of specific examples, my testimony on the quality stabilization bill.

It is my view that the quality stabilization bill will keep intact, and will promote, our rigorous free and open system of competition in this country. This bill deserves early enactment.

I ask unanimous consent to have printed at this point in the RECORD an article from Forbes magazine of June 15, 1963.

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

WITH A CAPITAL C

Some people to the political left say the U.S. economy is no longer truly competitive. They flourish on such phrases as "administered prices." A recent book by a bright young liberal lawyer ("The Paper Economy," by David Bazelon) goes so far as to claim that big business has a sort of "taxing power" over the U.S. consumer.

Now some of these people are pretty good writers and phrasemakers. But they don't deserve very high marks as observers or as reporters. For the economy they write about bears only a remote resemblance to the real world that U.S. businessmen inhabit.

CEASELESS SEARCH

Consider the events reported on page 15 of this issue (*"P. & G. v. Scott:* Battle of the Century"). Here is Scott Paper, a company with a powerfully entrenched position in consumer paper products, a position bolstered by reputation, smart advertising, shrewd marketing and plenty of cash. What happens? Along comes Procter & Gamble driven by its ceaseless search for new markets and new profits—and Scott has a big battle on its hands. This on top of Scott's long-standing tugging and hauling against Kimberly-Clark, against local outfits and against private brands.

Or consider the razor-blade business. Gillette, as smart and as rich a marketing organization as there is, has long held 70 percent of the U.S. blade business. But Gillette held back on the stainless steel blade, and its previously stalemated competitors saw their chance. Result? And so it goes with the events reported in this and every issue of Forbes. No market, however strongly held, is safe. Let a company rest on its oars and, no matter how far ahead it may have been, it is quickly overtaken.

LESS ERRATIC

Price competition is certainly less prevalent than it once was. Short-term competition has tended to take place more on the level of marketing, advertising, and improved products.

Thus, most prices do not fluctuate ceaselessly and erratically. Razor blades cost the same on Friday as on Monday. Except at the retail level, price cutting has indeed become something of a dirty word.

But over the longer term, there certainly is price competition; for example, between aluminum and steel, a competition which exerts a downward pressure on both products. And as the copper story shows, coppermen have had to forgo the luxury of high prices at times of strong demand; high prices were losing them business to competing materials.

Then, too, overall industrial prices have been declining—at least relatively. In the special report on automation Forbes showed how competition has forced businessmen to pass the savings from automation on to the public.

HOW?

This kind of long-term competitive pressure is what businessmen today describe as the profit squeeze. They would dearly love to "administer" it or "tax" it out of existence. If the theoreticians would only tell them how.

THE INTERNATIONAL TRAVEL ACT

Mr. CANNON. Mr. President, the recently created International Travel Act which operates under the Department of Commerce has had great success in its short existence.

The activities of the U.S. Travel Service have covered the globe and operate in 45 major countries of the world with posters, ads, and publicity campaigns—all telling of the tourist attractions and friendliness with which foreign visitors will be greeted in the United States.

I believe that the results achieved thus far have been considerable.

I ask unanimous consent that an article recently published in the American Legion magazine be printed in the RECORD.

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

U.S. TOURISM AT LAST

In Rome you can now read big posters proclaiming "Scoprite un Nuevo Mondo. Visitate gli Stati Uniti."

Along the Rhine the same enchanting message appeals to passers-by: "Reisen Sie in ein Neue Welt. Besuchen Sie die U.S.A."

Even in São Paulo, Brazil, enticing billboards cry out in Portuguese: "Descubra um Mondo Nôvo. Visite os E.U.A."

In any language, that says: "Discover a new world. See the U.S.A." The United States is finally selling itself as a place for foreign tourists to visit, bring their pocketbooks, and spend. And it's paying off, in a current official drive of the U.S. Government to promote tourism in America as a way of bringing foreign bucks to the homeland. We find it refreshing for us to play merchant instead of anything from Santa Claus, to wet nurse, to doormat in our relations with our world neighbors. All the pleas "for understanding" that we've heard for years have a better chance this way than any other. Who understands one another better than a buyer and seller, haggling over a deal? And besides, we need the dough.

Here's the record of U.S. tourism so far:

June 1961: U.S. Travel Service (to promote tourism here) authorized by act of Congress (the International Travel Act).

January 1962: U.S. Travel Service organized as a wing of the U.S. Department of Commerce, with travel-promoting offices in London, Paris, Rome, Frankfurt, Mexico City, São Paulo, Bogotá, Tokyo, and Sydney—and peddling our wares from these offices in 45 different countries—with posters, ads, publicity campaigns.

January 1, 1963: Foreign travel in the United States in 1962 ended up 17-percent higher than in 1961—total customers—603,715.

March 1, 1963: January and February this year saw foreigners sightseeing in the "good old U.S.A." at a rate 37.4-percent higher than in January–February 1961. Midwinter 2-month total, 75,514.

PROPOSED NUCLEAR TEST BAN TREATY

Mr. ROBERTSON. Mr. President, the preamble to the treaty abandoning nuclear weapons tests signed by us in Moscow is deceptive. It states that the principal aim of the Russians, the British and the Americans is the quickest possible achievement of an agreement on general and complete disarmament, yet the treaty includes nothing whatever on that subject.

There can be no doubt of the fact that the arms race that has been going on during the cold war has imposed a greater financial burden on the Soviet Union than on us, resulting in a low standard of living. This is a burden that Khrushchev would like to have eased. It is also to his interest to have the people of Russia and of the whole world believe that his principal aim is general disarmament.

This was clearly illustrated at the Interparliamentary Union meeting last October in Brasilia, where I served as chairman of the U.S. delegation and spoke on the Russian proposal put forward at that time for world disarmament. Characteristically, the representatives of the Soviet Union and all its satellites at that international conference strongly recommended international disarmament, but without any opportunity for anybody to inspect the extent to which the Communists would live up to such a program. This proposal, it must be remembered, was being put forward at the very time the United States was learning the full extent of the grave threat it faced from the long-range missiles the Russians had secretly installed in Cuba. The incident that best illustrated the duplicity of the Communists was the bitter attack made upon the United States by Soviet and satellite delegates because of our naval blockade of Cuba before they got the word in Brazil that the Russians had openly admitted lying to us about the nature of their Cuban missiles.

During the lifetime of the United Nations, Russia has used its veto 100 times, and has killed every single proposal for effective world peace put forward by the United States and other free countries.

In 1961, we entered into an informal no-testing agreement with Khrushchev, and while American and Russian representatives were debating in Geneva terms for a formal treaty, the Russians were engaged in feverish preparations to test the largest nuclear bombs ever exploded in the atmosphere. They ran nearly 100

tests, with total explosive power and consequent nuclear fallout equal to the force of 300 million tons of TNT. This series of tests definitely placed the Russians ahead of us in the perfecting of the largest nuclear weapons ever devised, but they still needed to do underground testing, which is permitted in the present treaty.

In denouncing the violations of the no-testing agreement, President Kennedy said in November 1961:

> If they fooled us once, it is their fault; and if they fool us twice, it will be our fault.

As a safeguard against our being fooled twice, the President declared specifically in January 1962, that any future agreement we might conclude with the Russians on nuclear test controls would have to contain "methods of inspection and control which could protect us against a repetition of prolonged secret preparations for a sudden series of major tests."

Up to the current treaty, the President has consistently insisted on the right of inspection. And Khrushchev has just as consistently refused and still refuses. The Russian Premier did promise last fall that we would have the right to inspect his withdrawal of the missiles from Cuba, and then, characteristically, he reneged on that promise.

So now we are being asked to believe what has never been true of any dictator in the history of the world; namely, that Khrushchev is willing to give up the military force through which his predecessor came to power and through which Khrushchev, himself, has subsequently been maintained in power; and Khrushchev asks us and the free world to accept his simple promise to do this while denying permission to us to inspect the Russian military program either in the Soviet Union or in any of its satellite countries.

Under the no-inspection provision of the new test ban treaty, it will be possible for the Russians to carry out the same elaborate preparations for a new atmospheric testing program as they did when they doublecrossed us in 1961 while piously proclaiming their good faith to our negotiators in Geneva.

If our own military experts testify before the Senate Armed Services Committee that we cannot be hurt by ratifying the pending test ban treaty, I shall be inclined to vote for it; but no amount of soothing talk by Ambassador Harriman or by anyone else about the change of heart of Khrushchev, or about the tear he saw in Khrushchev's eye when they were discussing a program of friendly coexistence will convince me that we can trust those who have repeatedly and consistently proven to all the world that they cannot be trusted.

In His Sermon on the Mount, Jesus warned us as follows:

> Beware of false prophets which come to you in sheep's clothing, but inwardly they are ravening wolves. Ye shall know them by their fruits. Do men gather grapes of thorns or figs of thistles? Even so, every good tree bringeth forth good fruit, but a corrupt tree bringeth forth evil fruit.

When I was a young lawyer practicing in the counties of Rockbridge, Amherst, and Nelson, I knew a mountaineer living on the Tye River in Nelson County, locally called Achelles Fitzgerald, or more affectionately known as "Old Ach."

"Old Ach" fell out with a neighbor who was a great religious exaltor on Sunday, but anything else during the other 6 days of the week. Fixing that neighbor with a piercing brown eye, "Old Ach" said, "The Good Book says that by their fruits ye shall know them, but you have never put forth even a blossom."

I ask the relatives of those slaughtered in the streets of Budapest for their definition of Khrushchev's program of peaceful coexistence.

EDITOR OF THE WEEK

Mr. MUNDT. Mr. President, the Publishers' Auxiliary—a "trade" newspaper published fortnightly by the National Editorial Association—contains what I like to think of as a "good news" feature story in each issue under the heading, "Editor of the Week."

The editorial board of the Auxiliary selects as the subject of this feature story an editor who has made and is making important contributions in his or her work in the publishing of a newspaper.

While I am not familiar with the mechanics of selection in citing the various editors who are so recognized, from my own reading of these articles I gather that the choice is made in approximately this fashion:

First. The newspaper, because of the consistent and devoted work of the editor, enjoys a reputation of great integrity that is a credit to the newspaper industry and maintains standards in full keeping with responsibilities and privileges that accompany the rights of a free press.

Second. The editor, through his or her paper, has been an effective "force for good" in the growth and progress of the community and locality served by the publication.

Third. The high ideal of a respect for each person as an individual, a dedication to enhancement of our moral values, and a cherished devotion to our country, is fully and faithfully advanced by the editor.

Perhaps there is another basis for recognizing these editors, and perhaps there are additional standards to be met, but I know from my own observations and personal acquaintance that those editors who have been recognized by the Auxiliary achieve the goals which I have briefly outlined.

In the most recent issue of the Publishers' Auxiliary, August 3, 1963, one of our South Dakota editors is honored as "Editor of the Week."

This South Dakota publisher is not the first by any means to be selected by the Publishers' Auxiliary for this particular recognition. Over the years a number of our outstanding editors and publishers from South Dakota have been designated for this honor, and from my own friendship of many years with the members of the fourth estate in South Dakota, I know these tributes are richly deserved.

Such is the case with Mrs. Rachel Lung Walradth, editor and publisher of the White Leader in White, S. Dak., Brookings County.

Mrs. Walradth, whom I am privileged and pleased to refer to as a dear personal friend, is one of the Nation's oldest active newspaper editors.

She is 85 and has been in the newspaper business for 70 years, going back to the days when, as a girl of 15, she was setting type by hand at the Elkton Record at Elkton, also in Brookings County.

Mrs. Walradth is a pioneer newspaper editor and over the years has not only observed the development of her community and our State, but has had an important role in that development through her publishing endeavors.

Mr. President, I am delighted to salute Mrs. Rachel Walradth, publisher of the White Leader, as "Editor of the Week," and ask unanimous consent to have printed in the RECORD at this point the very excellent article about Mrs. Walradth written by Mr. Bill Dorr, managing editor of the Publishers' Auxiliary.

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

[From the Publishers' Auxiliary, Aug. 3, 1963]

SOUTH DAKOTA'S CACKLING OLD HEN BUSY AT 70TH YEAR OF NEWSPAPERING

(By Bill Dorr)

When young preacher George Lung of Minnesota brought his family across the prairies to South Dakota in 1882 the sky had to stretch itself the limit to touch the four corners of the great flat earth.

"Life has been interesting since then," says Rachel Lung Walradth, Lung's daughter, who also made the journey by covered wagon. Mrs. Walradth at 85, is editor of the White (S. Dak.) Leader and one of the country's oldest active newspaper editors.

"From covered wagons to jets and spacecraft; from twisted hay, flaxstraw and 'buffalo chips' to automatic (maybe soon solar) heat; from the open prairies to groves and modern homes. I wonder if another 85 years can produce such marvelous changes.

"However, human nature hasn't changed much," she adds. "No matter under what conditions people live, human nature is much the same and moral values do not fluctuate like economic circumstances."

Mrs. Walradth should know. A self-admitted cackling old hen, she spends more time observing than cackling. She became a printer at a time when coy young ladies held on to skirts in self-protection as they swept past the Elkton Record print shop where she had her first job, setting type by hand, at 15. The everlasting dry years of the broad South Dakota plains and depression even beyond in the cities ended her formal education after a year in high school.

In 1918, she married George Walradth and moved to White. In June 1924 the White Leader was ready to be disbanded when two local men, a banker and the postmaster, bought the property and hired a widow to operate it. Mrs. Walradth was hired as a typesetter.

Opportunity followed for both ladies. The widow soon married, and soon after Mrs. Walradth bought the paper and has operated it since.

During the years that followed Mrs. Walradth—like her State—endured. The hot dry years of the thirties parched the endless earth and when it occasionally softened, the strong prairie winds blew away the soil and freshly planted seeds. Farmers planted strong trees around tall chimneyed old farmhouses and watched the drying limbs reach hopelessly for a sky that was often clouded with blowing soil. At the Leader, Mrs. Wal-

radth did most of the work, writing, setting type, and all the other chores. Her husband who had other occupations, assisted with maintenance. Mrs. Walradth set type by hand until 1946 when she bought some equipment from a discontinued weekly—including a linotype.

"Like any profession, newspapering has its tribulations," she says, "but the satisfaction of being of service to a small community offsets them. Being too busy to think about oneself is wholesome."

Needless to say this "cackling old hen" has little time to think about herself. In her weekly column under that heading, she takes to task the problems of the universe in neat small paragraphs wedged between homey notes like: "Mrs. Bertha Stamp will be 90 years of age June 24."

And: "It's about time for White to put on some kind of entertainment or appreciation program. How about a hootenanny and wing-ding?"

The other paragraphs deal with unrelated matters such as religion in schools, labor troubles, and racial problems.

After a long day at the office she hurries home to work in her garden (one of her hobbies) and after dinner perhaps dash off a few lines of verse (another hobby). One of her ballads has been set to music. Her biggest job as a journalist was compiling and publishing her city's history for anniversary editions.

About awards and honors she doesn't cackle much: "Several firsts, seconds, and thirds in the State contests, and a lifetime membership in the South Dakota Press Women," she recalls.

She had given up hope of ever having a high school diploma but received an honorary one from White High School in 1957.

"I dont know how long I'll continue editing," she reflects. "After all these years I'd hate to quit, but when a woman passes 80 she knows she will have to stop someday before long."

TENTH ANNIVERSARY OF U.S. INFORMATION AGENCY

Mr. JORDAN of North Carolina. Mr. President, in commenting on the 10th anniversary of the U.S. Information Agency I think it is well to note that its radio arm, the Voice of America—VOA—has been vastly strengthened by the opening early this year of a giant 4.8-million-watt transmitter completed in my home State of North Carolina. This transmitter is situated near Greenville in the eastern part of my State where broadcasts are transmitted throughout the world.

As we all know the power of domestic radio transmitters is limited to 50,000 watts, it is a matter of simple arithmetic to demonstrate that the VOA's North Carolina transmitter complex is equal to more than 90 of the most powerful domestic transmitters.

This VOA plant covers more than 6,000 acres including two transmitter locations and one receiver site. As we all know, the Voice of America operates 7 days a week around the clock and this new VOA facility at Greenville gives this country a louder and clearer voice direct to Latin America, Europe, and Africa. Not only does this provide better reception for millions of listeners and increase the total audience, but it gives Voice of America stations in Europe, the Mediterranean, and Africa more reliable and higher quality programs for relay to their target areas.

We know, of course, that the U.S. Information Agency uses all means of communication to the people of the world, including the printed word in newspapers, pamphlets, magazines, and books; visual material such as photographs, displays, exhibits, motion pictures, and television. But radio is unique in that it cannot effectively be stopped at national boundaries, even by "jamming"; it is relatively inexpensive; it reaches tremendous audiences instantaneously.

We in North Carolina are very proud of the fact that our State was chosen for the location of the new radio transmitter, but this is not the only reason we feel especially close to the U.S. Information Agency.

We are proud of the fact, too, that the Directors of the USIA have been North Carolinians.

The present Director, Mr. Edward R. Murrow, is a native North Carolinian, and he is doing a truly tremendous job of sending the message of America and freedom throughout the world.

Mr. Murrow's predecessor, Mr. George V. Allen, is also a North Carolinian, and his wonderful record as Director of USIA and as a diplomat is well known to all of us.

ATTITUDE OF CHURCH OF LATTER-DAY SAINTS TOWARD JOHN BIRCH SOCIETY

Mr. BENNETT. Mr. President, on May 28 of this year there appears on page 9701 of the RECORD an insertion made by my colleague [Mr. Moss] in which he discusses briefly the attitude of the Latter-day Saints (Mormon) Church toward the John Birch Society, and in which was printed a statement from the Salt Lake Tribune of March 21, 1963, under the heading, "L-DS Presidency Issues Stand on Birch Society."

Then follows a brief three-sentence statement regarding the position of former Secretary of Agriculture Ezra Taft Benson. It is headed by a line in parentheses, "From the Salt Lake Tribune, March 21, 1963." This carries with it the implication that all three sentences are quotations from that paper on that date. In fact, the first two sentences are paraphrases, and only the third is a direct quotation from the article. This handling of Mr. Benson's position has disturbed many of his friends in Utah, and at the request of one of them, Mr. Robert W. Lee, I ask unanimous consent to have printed in the RECORD, the texts of the three statements in their complete form.

First, in order to set the record in focus, I should like to reinsert the first statement from the Salt Lake Tribune on March 21, 1963, under the heading, "L-DS Presidency Issues Stand on Birch Society."

Second, immediately following it I would like to insert the entire text of the other article printed in the Salt Lake Tribune on the same day, March 21, 1963, whose headline reads, "Benson Clarifies Views on Birch Society Stand." It will be noticed that the sixth paragraph in that article is the one quoted on page 9701 of the RECORD.

Third, at the request of Mr. Lee, I offer for the RECORD a letter addressed to him on August 1, 1963, and signed by Clare Middlemiss, secretary to David O. McKay, president of the L-DS Church. The letter to Mr. Lee not only contains my authority to insert the letter in the RECORD, but also quotes an earlier letter addressed to Mr. Lee and also signed by Clare Middlemiss, secretary to President McKay, which stated the church position in slightly different language.

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

L-DS PRESIDENCY ISSUES STAND ON BIRCH SOCIETY

The first presidency of the Church of Jesus Christ of Latter-day Saints Thursday issued a formal statement to "correct the false statements and unwarranted assumptions regarding the position allegedly taken by leaders of the church on political questions in general and the John Birch Society in particular."

The statement follows:

"The church recognizes and protects the rights of its members to express their personal political beliefs, but it reserves to itself the right to formulate and proclaim its own doctrine.

"We believe in a two-party system, and all our members are perfectly free to support the party of their choice.

"We deplore the presumption of some politicians, especially officers, coordinators, and members of the John Birch Society, who undertake to aline the church and its leadership with their partisan views.

"We encourage our members to exercise the right of citizenship, to vote according to their own convictions, but no one should seek or pretend to have our approval of their adherence to any extreme ideologies.

"We denounce communism as being anti-Christian, anti-American, and the enemy of freedom, but we think they who pretend to fight it by casting aspersions on our elected officers or other fellow citizens do the anti-Communist cause a great disservice.

"We again urge our bishops, stake presidents, and other officers of the church to refuse all applications for the use of our chapels, cultural halls, or other places for political meetings, money-raising propaganda, or to promote any person's political ambitions."

The statement was signed by President David O. McKay, Henry D. Moyle, and Hugh B. Brown, counselors in the first presidency of the church.

[From the Salt Lake Tribune, Mar. 21, 1963]

BENSON CLARIFIES VIEWS ON BIRCH SOCIETY STAND

At least 1,000 persons have written headquarters of the Church of Jesus Christ of Latter-day Saints seeking the church's views on the John Birch Society, Ezra Taft Benson, member of the Council of Twelve Apostles, disclosed Wednesday.

Returning to Salt Lake City from a 2-day business trip to New York, the former U.S. Secretary of Agriculture said he is amazed at the number of persons making such inquiries.

"At least a thousand persons, either members of the society or just well informed on it have written President David O. McKay to learn the church's stand," Elder Benson said.

Mr. Benson said that although he is not a member of the society, he "strongly" believes in its principles. He aded that by the same token, while he is not a member of the Farm Bureau, he believes in its efforts, too.

Mr. Benson said he is too busy with his church work to join many organizations he would like to support.

"I have stated, as my personal opinion only, that the John Birch Society 'is the most effective nonchurch organization in our fight against creeping socialism and godless communism.'

"Obviously only one man, President David O. McKay, speaks for the Church of Jesus Christ of Latter-day Saints (Mormon) on matters of policy.

"In response to many inquiries, the office of President McKay has stated, 'that members of the church are free to join anti-Communist organizations if they desire and their membership in the church is not jeopardized by so doing.

" 'The church is not opposing the John Birch Society or any other organization of like nature; however, it is definitely opposed to anyone's using the church for the purpose of increasing membership for private organizations sponsoring these various ideologies.' "

Elder Benson, whose son, Reed, is Utah coordinator for the John Birch Society, said he is completely impressed by the people who are pushing the work of the society and praised the "honesty and integrity" of Robert Welch, the founder.

THE CHURCH OF JESUS CHRIST
OF LATTER-DAY SAINTS,
Salt Lake City, Utah, August 1, 1963.

Mr. ROBERT W. LEE,
Salt Lake City, Utah.

DEAR BROTHER LEE: In your letter of July 27, 1963, you state that Senator WALLACE F. BENNETT will enter in the CONGRESSIONAL RECORD a copy of a letter which has been sent from this office to members of the church who have inquired whether or not the church objects to their joining the John Birch Society.

President McKay has instructed me to tell you that Senator BENNETT has his permission to have printed in the CONGRESSIONAL RECORD the letter in question as follows:

"Inasmuch as President McKay is under such a heavy schedule of duties and meetings associated with the general administration of the church, he has asked me to acknowledge for him your letters of January 25 and 28, 1963, wherein you make reference to a recent statement published by the first presidency setting forth the position of the church regarding partisan politics and other related matters.

"I have been directed to say that members of the church are free to join anti-Communist organizations if they desire and their membership in the church is not jeopardized by so doing. The church is not opposing the John Birch Society or any other organization of like nature; however, it is definitely opposed to anyone's using the church for the purpose of increasing membership for private organizations sponsoring these various ideologies.

"Sincerely yours,

"CLARE MIDDLEMISS,
"Secretary to President David O. McKay."

With best wishes, I remain,

Sincerely yours,

CLARE MIDDLEMISS,
Secretary to President David O. McKay.

Mr. BENNETT. Mr. President, by inserting the full text of these three statements, I hope I will have been able to clear up any misunderstandings that may have been created by the earlier—and incomplete—text in the RECORD.

THE PROMISE OF THE ATOM—ADDRESS BY DR. GLENN SEABORG, CHAIRMAN, ATOMIC ENERGY COMMISSION

Mr. McCARTHY. Mr. President, Dr. Glenn Seaborg, Chairman of the Atomic Energy Commission, spoke recently in Minneapolis, Minn., at the 30th annual Svenskarnas Dag celebration. I believe his statement about the current use and the potential use of nuclear power for many different purposes will be of interest to Members of Congress, and I ask unanimous consent that it be printed in the RECORD.

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

THE PROMISE OF THE ATOM

(Remarks by Dr. Glenn T. Seaborg, Chairman, U.S. Atomic Energy Commission, at the 30th annual Svenskarnas Dag celebration, Minneapolis, Minn., June 23, 1963)

It is a real pleasure for me to visit the historic Minnehaha Park and to join you here in the celebration of the 30th annual Svenskarnas Dag.

As I am of Swedish descent, I have an interest in common with members of your organization. My mother was Swedish, born in Grangesberg, Dalarna, and my father's father came from Hallefors, and my father's mother from the Orebro area. So, you can see why I feel closely related to people of Swedish descent.

Only last summer I had occasion to visit Sweden and again enjoyed meeting and becoming acquainted with many people in Swedish public life. I again had the opportunity to meet many of my relatives who live in Sweden. I was impressed by both Sweden and by the Swedish people, and was surprised to learn that there were as many Swedes in Stockholm as there are in Minneapolis.

Most Americans are of European origin or descent, and America has been built and made great by the infusion of the culture, the energy and the hard work of the millions of immigrants and their children and children's children. And, it is human for us to have pride in our ancestry and origins.

Over the last several decades there has been a tremendous tide of scientific discovery and development throughout most of the civilized world, and it is important that all of us have some comprehension of the influence of science upon our civilization. My particular interest as a scientist is, as you know, atomic energy, more properly called nuclear energy, and in my opinion some of the most interesting and valuable scientific developments over the last 20 years have been in the peaceful uses of atomic or nuclear energy.

The preamble of the Atomic Energy Act which established the U.S. Atomic Energy Commission declares it to be the policy of the United States that the development, use and control of atomic energy should be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making a maximum contribution to the common defense and security. Congress, the author of this legislation, has thus established not only a precept for the Atomic Energy Commission but also a charter declaring in simple terms the very purpose of Government—namely, to defend the people and to contribute to their general well-being.

Since this is the 30th annual Svenskarnas Dag, I think you may also be interested in what Sweden is doing in nuclear energy. I visited there last year. As is the case in the United States, Government and private industry have combined resources to build an excellent program. Their effort is concentrated on developing nuclear power, and with good reason. Not many sites remain for adding more hydroelectric plants which today supply nine-tenths of Sweden's electrical power needs. Most coal and oil is imported and Sweden's power demands are growing at the rate of 6 to 7 percent a year.

So Sweden is looking to the nucleus of the atom to supply most of her future electrical power needs. I visited the excellent nuclear research center that has been developed at Studsvik on the Baltic. Other plants and facilities are located at Stockholm. A whole family of research and testing nuclear reactors has been built or is under construction to lay the scientific and technical foundation for the design and building of large nuclear powerplants.

One unusual plant—the Agesta nuclear power station—should be in operation shortly. I also had the pleasure of visiting this plant which is located underground in the mountains outside Stockholm. In this case, the heat which the fissioning atoms generate in the reactor will not only be used to make electricity, but most of the heat generated will provide hot water for district heating at Farsta, a suburb south of Stockholm. Just as electricity made in nuclear plants is no different from that made in oil- or coal-fired plants, this steam will be no different from that made by conventional means. It will not be radioactive.

The United States and Sweden cooperate actively in the nuclear field. As a part of our atoms-for-peace program, a cooperative agreement has been in effect with Sweden since 1956. The areas of cooperation have been extended several times and will be enlarged further in the renewal of this joint agreement now being negotiated.

Sweden has been a leader in fostering worldwide cooperation in the peaceful uses of nuclear energy. Harry Brynielsson, managing director of the Atomic Energy Co. of Sweden, has been active in supporting work on radioactive waste disposal and has served as chairman of an international panel of experts on disposal of radioactive waste into the sea. Another distinguished Swedish scientist, Dr. Sigvard Eklund, is director general of the International Atomic Energy Agency, with headquarters in Vienna, Austria.

Let us now return to the atomic or nuclear energy activities here in the United States.

The program that has received the most public attention in the application of the peaceful benefits of the atom is, of course, our civilian nuclear power program. Nuclear power, as you may know, is generated in a nuclear reactor fueled with nuclear fuel such as uranium 235 or plutonium.

The reactor, of course, is the machine by which the enormous power of the nucleus of the atom is produced and controlled. In the generation of electricity, the reactor replaces the coal-, oil-, or gas-fired boiler of a conventionally fueled powerplant. We now have 23 nuclear powerplants being built, tested or "on the line" in this country. Three of these plants are in this area at Elk River, Minn., Sioux Falls, S. Dak., and near LaCrosse, Wis.

It may surprise you to know that the total energy locked in the world's uranium and thorium ores—which can be used as fuel in nuclear reactors—is many thousandfold that in the known reserves of conventional or fossil fuels, such as oil, gas and coal. This assumes that it will be possible to develop advanced, highly efficient reactors, known as breeder reactors, capable of producing more nuclear fuel than they consume. With these reactors we can utilize not only the seven-tenths of 1 percent of the fissionable isotope uranium 235 found in nature, but the much more abundant isotope uranium 238, and also thorium 232. This energy reserve is important since our country's economy and growth are linked closely with our requirements for energy and power, particularly electrical power.

As some of you may know, the Atomic Energy Commission recently submitted a report to President Kennedy in which we noted that civilian nuclear power was on the threshold of being economically competitive with other forms of electric power generation. In fact, in certain high-cost fuel areas of the

United States, such as California and New England, utilities have already decided to proceed with the immediate construction of new, large nuclear powerplants because they consider them to be economical.

The Government expects to give continued and increased support to the development of the breeder reactors which I have previously mentioned; and the result of such Government assistance should be such that by the year 2000 probably 50 percent of all electrical power generated in this country will be from nuclear sources, and essentially all new plants built from that time on will be nuclear plants.

Now I'd like to say just a few words about the use of nuclear power for propulsion of merchant ships. Out of the approximately 1,000 vessels making up the American merchant marine, only about 60 can sustain cruising speeds as high as 18 knots. We believe nuclear power will give us merchant ships that can cruise steadily at 25 to 30 knots without having to refuel at the end of each run. Fast trips at these speeds would, it is expected, play a major part in revitalizing the American merchant marine.

I hope you realize that the current troubles with our splendid nuclear ship *Savannah*, the world's first nuclear-powered cargo-passenger ship, do not spring from any deficiency in the nuclear technology. It is designed to operate 3½ years and to travel about 350,000 miles on one loading of fuel. Imagine, 14 times around the world without refueling.

The *Savannah* has visited about a dozen U.S. ports and has been received enthusiastically. It has gone 30,000 miles under nuclear power and has cruised at more than 22 knots. It has shown the world that nuclear power for merchant ships is feasible. I have been aboard the *Savannah* for a short run. It is an exciting experience to feel this beautiful ship glide through the water under nuclear power without boilers or smokestacks. We are confident that the *Savannah* will point the way for nuclear merchant ships of the future.

One of the most exciting uses of nuclear energy is for space propulsion. The dimension of space, exemplified by travel to the moon and the planets, has long been a dream of men. So much has it been a dream that references to it have been practically limited to miracles and to science fiction. While man becomes adjusted to life in new and strange physical environments through the rather slow processes of evolution and adaptation, his adjustment to recent prospects of a new spatial dimension in his environment has been swift and sure. For, as has often been true since the advent of the Scientific Revolution of the last two decades—miracles become reality, and fiction fact.

The Atomic Energy Commission is conducting two space programs. One, the Rover program, will lead to the development of a nuclear rocket. The second, the SNAP program (the word SNAP is derived from the first letters of the words "System for Nuclear Auxiliary Power"), will provide the benefits of nuclear electrical power in space. Both of these programs are conducted in close cooperation with the user agencies of the Government—the National Aeronatics and Space Administration (NASA) and the Department of Defense.

The Rover program is designed to develop a nuclear rocket engine which will use the high temperature heat provided by a nuclear reactor to heat liquid hydrogen to very high temperatures. This heated hydrogen, which is the best rocket propellant, will then be expelled through a jet nozzle for thrust. It is expected that the efficiency of this nuclear rocket will be at least twice that of the best rockets using ordinary chemical fuel. This leads to great advantages for nuclear power in very long range, high pay load, missions, such as voyages to the planets. An example of the benefits accrued from this increase in efficiency with a nuclear rocket is that in projecting a manned trip to land on and explore Mars, the gross weight of a nuclear vehicle that would have to be assembled in an earth orbit prior to the trip would be only about one-tenth that of a vehicle powered by chemical fuel.

The other space program that the Commission is conducting, and which I have referred to as the SNAP program, is the one in which we have scored our first space successes. On June 29 and November 16, 1961, nuclear-powered batteries were orbited in the Navy's navigational satellites Transit IV–A and IV–B. These batteries were fueled with the radioisotope plutonium 238. The heat from the decay of this radioactive isotope is converted in the satellite to useful electrical power through thermoelectric devices. Thus this battery has no moving parts. While the battery in Transit IV–A, for example, weighs only five pounds, it has produced electricity equivalent to what could have been produced by thousands of pounds of ordinary batteries. In the SNAP program we are also developing and constructing other lightweight radioisotope-fueled batteries for other space missions, including one which could be used in the NASA Surveyor missions to explore the surface of the moon. This generator—called SNAP 11—would also be able to provide heat to the Surveyor craft during the cold lunar nights.

However, if we are to have large complex communications or weather satellites in orbit, and if we are to develop successful electric space propulsion, it is important that we have ultimately much larger amounts of electrical power available to us in space. For these purposes the Commission is developing a series of reactors which will provide long-lived, lightweight, compact reliable nuclear power sources for space missions. The first of these is scheduled to be flight tested in 1964 or 1965.

One possible use of these compact SNAP reactors would be to power communication satellites capable of broadcasting TV and radio programs directly to all our homes—in contrast to the communication satellites, such as Telstar, which require sensitive receivers to amplify and relay the message. Imagine such communication satellites in 24-hour orbits. These are orbits at altitudes of about 22,000 miles, where the periods of revolution are just equal to 24 hours, the earth's period of revolution. Thus, such a communication satellite would appear stationary over one spot on the earth and three such satellites, properly positioned, could cover television transmission over the entire earth. Nuclear power would probably be necessary for these communication satellites, since the power requirements for direct TV broadcast necessitate many kilowatts of electricity—a demand which can be met reasonably only through nuclear energy.

One of the Atomic Energy Commission's peaceful projects has been called the Plowshare program from the biblical reference to "beating swords into plowshares," in this instance by using the explosive force of nuclear devices in peaceful applications. Nuclear explosions appear to offer great advantages in excavation, mining, and other earthmoving or earthcrushing tasks, including the forming of channels and harbors. Our first excavating experiment, which we called Project Sedan, exploded a 100-kiloton nuclear device in Nevada last July at an underground depth of over 600 feet. The crater produced by this single explosion measures about 1,200 feet across and 320 feet deep and displaced about 7 million cubic yards of earth and rock weighing about 12 million tons.

One of the most exciting applications of the peaceful uses of the nucleus of the atom is in the use of radioisotopes. These have had spectacular success in the medical field, and have made significant contributions to industry and agriculture as well.

Nature provides us with a few natural radioisotopes such as radium which gives us radiation similar to the familiar X-ray. But the vast majority of radioisotopes are man-made. There are several ways of doing this but today most of them are made in relatively large quantities by bombarding stable isotopes in a nuclear reactor with neutrons—the atomic "bullets" resulting from the fissioning of atoms. Even these quantities are small compared with our usual considerations. For example, one pure, undiluted ounce of one very useful radioisotope—radiophosphorous—is considered a very large quantity; indeed, much larger than anyone needs. Such an ounce would cost $10 billion. But important chemical and medical experiments can be conducted with a million-millionths of an ounce, costing only a penny.

The use of radioactive isotopes has provided some truly astonishing advances in fundamental medical research and in the diagnosis and treatment of diseases. For example, the radioactive tracer iron 59 has been used extensively in medical research to expand in unique ways our knowledge of the blood. Radioactive tracers such as iodine 131 are widely employed in diagnostic tests to establish the state of health of the thyroid, liver, kidneys and other organs. Radioactive isotopes in larger amounts are used for the treatment of diseases as, for example, the alleviation of various thyroid disorders with iodine 131 and certain cancers with cobalt 60. To appreciate the extent of these applications consider that one-half million atomic cocktails containing iodine 131 are served per year.

There are several important characteristics of these radioisotopes that account for a great number of uses. One is the ability of the radiation produced in the decay of the radioisotope to penetrate solid materials, even steel castings. These radioisotopes—such as cobalt 60 and promethium 147—can therefore replace and improve upon X-ray machines in many applications. Another characteristic is that radioisotopes broadcast their presence by the emission of radiations at all times. With sensitive detection instruments, a minute amount of a radioisotope can be accurately followed, leading to many uses of these atoms as tracers in atom tagging experiments. For example, one can put a tagged atom into a complicated molecule, such as sugar, and trace the path of these molecules through a series of chemical reactions, or through the body.

One of the first dividends of the use of radioisotopes in agriculture was the demonstration, principally through radioactive phosphorous, of more efficient and economical fertilizing practices. Better diets for farm animals, developed through research with radioisotopes, have resulted in increased meat, milk, and egg yields.

Since with tagged atoms one can find out how far and how fast an insect travels, how long it lives, and its life habits, the radioisotope has assisted in the improvement of insecticides.

With the help of these atomic factfinders, we are also receiving exact information about utilization by animals of all types of fodder, such as availability from feeds of calcium, phosphorous, sulfur, etc. Diseases and internal parasites, cattle grubs, and virus infections are also being effectively studied by tracers as a prerequisite to effective control. Potential savings to the livestock industry through the use of radioisotope studies are estimated at over a hundred million dollars per year.

In the oil industry atomic tracers are used routinely in checking for leaks in underground pipelines, in the location of oil-bearing strata to increase the output of old wells, to measure the level of liquids in various types of refinery units, and to inspect

process equipment for faults. The thickness of the paper used in your home or office may have been controlled by the use of a radioisotopic thickness gage. The motor oil in your car may be more efficient because radioactive piston rings were used to measure the wear on the motor. Most auto tires are now more uniform and safe because radioisotopic gages are used to control the vulcanization of rubber onto the basic fabric.

While I have not taken time to describe the research which the Commission carries on in its own laboratories and which it finances in the laboratories of universities and other contractors to explore further the nucleus of the atom for new beneficial and peaceful applications, I believe what I have said tells you something of the work of the Atomic Energy Commission and of the wonders of the atom and its great potentials for man's benefit here on earth and in his explorations in space.

Let me close by drawing a lesson from the future promise of the peaceful atom. I think it is clear to each of you that tomorrow's world will be a world of even further scientific and technological discoveries and application. I feel sure that Americans of Swedish descent, in the tradition of such men as Alfred Nobel, the great Swedish scientist and humanitarian, and John Ericsson, the great Swedish-American inventor, will appreciate that tomorrow's citizen—in order to participate in a meaningful way in their scientific society—must have a basic understanding of the principles of science and engineering upon which their world will be built. In other words, tomorrow's citizens must be on speaking terms with science. Now is the time to start this vast educational program for all the people, if we are successfully to meet the challenge of tomorrow.

EDITORIAL COMMENDING SENATOR WILLIAMS OF NEW JERSEY

Mr. McCARTHY. Mr. President, a recent editorial in the New Jersey Catholic Star Herald describes and commends the efforts of my distinguished colleague from New Jersey, Senator HARRISON A. WILLIAMS. Since 1959, Senator WILLIAMS has been the standard bearer on behalf of deprived and despairing migrant farm families. He has recently secured passage in the Senate for six significant bills to alleviate the severe hardships confronting this segment of agricultural America. Through unrelenting zeal and political selflessness, his legislative achievements stand as a bold declaration exploding the myth that America forgets her poor and needy because they are politically impotent. His continuing crusade to make social justice and equality more than a high-minded concept is given appropriate recognition in this editorial.

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

I ask unanimous consent that the editorial be printed in the RECORD.

[From the Catholic Star Herald, June 21, 1963]

CHAMPION OF POOR

All New Jerseyites should take pride in their own Senator HARRISON WILLIAMS for his outstanding service to the poorest of the poor, the migratory farm laborers. The Senator has championed this cause for many years. Today he is on the threshold of bringing to a successful conclusion years of patient and selfless work. Already the Senate has passed six bills of his, S. 521 to S. 526, inclusive. If they pass the House, as they should, it will mean the end of conditions among migratory farmers that have blighted their lives and their children's lives for the past generations.

The Senator's bills would provide Federal aid for regular school terms as well as summer school; day care services for the children of migratory farmworkers; a ceiling of 14 years of age for such farm employment, the third most hazardous occupation in our Nation; Federal registration of farm laborer contractors, the middlemen who often abuse their hard-pressed clients; Federal aid for better sanitation and, last but not least, a national advisory council to help Congress and the President on this neglected area of our affluent society.

We cannot praise Senator WILLIAMS too highly for what he has achieved. For the migratory farmers have no lobbyists working for them—they simply cannot afford such luxuries. They have no political party indebted to them or courting them since they are scattered over a dozen States at least. Even organized labor has discovered how unrewarding and dangerous efforts to organize them can be.

Consequently what Senator WILLIAMS accomplished was not for votes. He did what he did because he is a good man, because in his heart he felt compassion for the downtrodden, because he realized that political office is not a banquet to gorge oneself on but a sacred trust under God to provide wisely for the welfare of all, especially the neglected.

Father Vizzard, S.J., national director of the Catholic Rural Life Conference, summed it up in these words of tribute to Senator WILLIAMS: "If these six bills which you are proposing become law, this Nation will no longer need to blush with shame at the neglect and gross injustices which we have allowed to be visited upon our fellow citizens in the migratory labor force. These poor people have no voice to speak for themselves. So I presume to thank you in their name."

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

UNIFORMED SERVICES PAY ACT OF 1963

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 363, House bill 5555, the military pay increase bill, be laid before the Senate and be made the pending business.

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

The Senate proceeded to consider the bill (H.R. 5555) to amend title 37, United States Code, to increase the rates of basic pay for members of the uniformed services, and for other purposes, which had been reported from the Committee on Armed Service with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Uniformed Services Pay Act of 1963".

BASIC PAY

SEC. 2. Section 203 of title 37, United States Code, is amended to read as follows:

"§ 203. Rates

"The rates of monthly basic pay for members of the uniformed services within each pay grade are set forth in the following tables:

"Commissioned officers

"Pay grade	Years of service computed under sec. 205														
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O–10 [1]	$1,260	$1,315	$1,315	$1,315	$1,315	$1,365	$1,365	$1,470	$1,470	$1,575	$1,575	$1,680	$1,680	$1,785	$1,785
O–9	1,115	1,155	1,180	1,180	1,180	1,210	1,210	1,260	1,260	1,365	1,365	1,470	1,470	1,575	1,575
O–8	1,010	1,050	1,075	1,075	1,075	1,155	1,155	1,210	1,210	1,260	1,315	1,365	1,420	1,420	1,420
O–7	840	905	905	905	945	945	1,000	1,000	1,050	1,155	1,235	1,235	1,235	1,235	1,235
O–6	650	690	735	735	735	735	735	735	760	880	925	945	1,000	1,085	1,085
O–5	530	590	630	630	630	630	650	685	730	785	830	855	885	885	885
O–4	450	515	550	550	560	585	625	660	690	720	740	740	740	740	740
O–3 [2]	366	440	470	520	545	565	595	625	640	640	640	640	640	640	640
O–2 [2]	289	375	450	465	475	475	475	475	475	475	475	475	475	475	475
O–1 [2]	242	300	375	375	375	375	375	375	375	375	375	375	375	375	375

"[1] While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $1,970 regardless of cumulative years of service computed under section 205 of this title.

"[2] Does not apply to commissioned officers who have been credited with over 4 years' active service as an enlisted member.

"Commissioned officers who have been credited with over 4 years' active service as an enlisted member

"Pay grade	Years of service computed under sec. 205											
	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O–3	$520	$545	$565	$595	$625	$650	$650	$650	$650	$650	$650	$650
O–2	465	475	490	515	535	550	550	550	550	550	550	550
O–1	375	400	415	430	445	465	465	465	465	465	465	465

"Warrant officers

"Pay grade	Years of service computed under sec. 205														
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
W-4	$373	$430	$430	$440	$460	$480	$500	$535	$560	$580	$594	$615	$635	$685	$685
W-3	338	395	395	400	405	435	460	475	490	505	520	540	560	580	580
W-2	295	345	345	355	375	395	410	425	440	455	470	485	505	505	505
W-1	240	305	305	330	345	360	375	390	405	420	435	450	450	450	450

"Enlisted members

"Pay grade	Years of service computed under sec. 205														
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
E-9							$435	$445	$455	$465	$475	$485	$510	$560	$560
E-8						$365	375	385	395	405	415	425	450	500	500
E-7	$217.00	$275	$285	$295	$305	315	325	335	350	360	370	375	400	450	450
E-6	185.00	240	250	260	270	280	290	305	315	325	330	330	330	330	330
E-5	153.00	210	220	230	245	255	265	275	280	280	280	280	280	280	280
E-4	129.00	180	190	205	215	215	215	215	215	215	215	215	215	215	215
E-3	99.37	145	155	165	165	165	165	165	165	165	165	165	165	165	165
E-2	85.80	120	120	120	120	120	120	120	120	120	120	120	120	120	120
E-1	83.20	110	110	110	110	110	110	110	110	110	110	110	110	110	110".
E-1 (under 4 months)	78.00														

BASIC PAY AND ALLOWANCES OF CONTRACT SURGEONS

SEC. 3. (a) Section 201(b) of title 37, United States Code, is amended by striking out the word "O–2 with two or less" and inserting in place thereof the words "O–3 with over four, but not more than six,".

(b) Section 421(a) of title 37, United States Code, is amended by striking out the words "O–2 with less than two" and inserting in place thereof the words "O–3 with over four, but not more than six,".

SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 4. Section 302(b) of title 37, United States Code, is amended by striking out the figure "$200" in clause (3) and the figure "$250" in clause (4) and inserting in place thereof the figure "$250" and the figure "$350", respectively.

RETIRED PAY AND RETAINER PAY

SEC. 5. (a) Except as provided in section 1402 of title 10, United States Code, the changes made by this Act in the rates of basic pay of members of the uniformed services do not increase the retired pay or retainer pay to which a member or former member of the uniformed services was entitled on the day before the effective date of this Act.

(b) A member or former member of a uniformed service who was retired other than for physical disability and who, in accordance with section 511 of the Career Compensation Act of 1949 (63 Stat. 829), is entitled to retired pay or retainer pay computed by "method" (a) of that section using rates of basic pay that were in effect before October 1, 1949, is entitled—

(1) to have that pay recomputed by "method" (b) of that section using the rates of basic pay that were in effect under that Act on the day before the effective date of this Act; or

(2) to an increase of 5 percent in the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act;

whichever pay is the greater.

(c) A member or former member of a uniformed service who is entitled to retired pay or retainer pay computed under the rates of basic pay that were in effect under the Career Compensation Act of 1949 before June 1, 1958, including a member or former member who is entitled to retired pay under section 7 (b) or (c) of the Act of May 20, 1958, Public Law 85–422 (72 Stat. 130), is entitled—

(1) to have that pay recomputed under the rates of basic pay that were in effect under that Act on the day before the effective date of this Act; or

(2) to an increase of 5 percent in the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act;

whichever pay is the greater.

(d) A member or former member of a uniformed service who was entitled to retired pay on the day before the effective date of this Act and who served as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps is entitled—

(1) to have his retired pay recomputed under the formula for computing retired pay applicable to him—

(A) when he retired; or

(B) if he served on active duty after he retired and his retired pay was recomputed by reason of that service, when his retired pay was so recomputed;

using as his rate of basic pay the rate of basic pay prescribed for officers serving on active duty in those positions on June 1, 1958, by footnote 1 to the table for commissioned officers in section 201(a) of the Career Compensation Act of 1949, as amended (72 Stat. 122); or

(2) to an increase of 5 percent in the retired pay to which he was entitled on the day before the effective date of this Act;

whichever pay is the greater.

(e) A member or former member of a uniformed service who was entitled to retired pay or retainer pay on the day before the effective date of this Act, other than a member or former member who is covered by subsection (b), (c), or (d) of this section, is entitled to an increase of 5 percent in the retired pay or retainer pay to which he was entitled on the day before the effective date of this Act. For the purposes of the preceding sentence, a member or former member who becomes entitled to retired pay or retainer pay on the effective date of this Act by virtue of section 1 of the Act of April 23, 1930, chapter 209, as amended (5 U.S.C. 47a), shall be considered as having become entitled to that pay before the effective date of this Act.

(f) Notwithstanding any other provision of law, a member of an armed force who was entitled to pay and allowances under any of the following provisions of law on the day before the effective date of this Act shall continue to receive the pay and allowances to which he was entitled on that day:

(1) The Act of March 23, 1946, chapter 112 (60 Stat. 59).

(2) The Act of June 26, 1948, chapter 677 (62 Stat. 1052).

(3) The Act of September 18, 1950, chapter 952 (64 Stat. A224).

(g) Chapter 71 of title 10, United States Code, is amended—

(1) by adding the following new section after section 1401:

"§ 1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index

"(a) Unless otherwise specifically provided by law, the retired pay or retainer pay of a member or former member of an armed force shall not be recomputed to reflect any increase in the rates of basic pay for members of the armed forces if that increase becomes effective after the effective date of this section.

"(b) In January of each calendar year after 1963, the Secretary of Defense shall determine the percent that the annual average of the Consumer Price Index (all items—United States city average) published by the Bureau of Labor Statistics for the preceding calendar year has increased over that for 1962 or, if later, for the calendar year preceding that in which the most recent adjustment in retired pay and retainer pay has been made under this subsection. If the Secretary determines the percent of that increase to be 3 or more, the retired pay or retainer pay of a member or former member of an armed force who became entitled to that pay before January 2 of the year in which the Secretary makes that determination shall, as of April 1 of that year, be increased by that percent, adjusted to the nearest one-tenth of 1 percent."; and

(2) by inserting the following new item in the analysis:

"1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index."

(h) Title 10, United States Code, is amended as follows:

(1) Section 1401 is amended by striking out the words ", and adjust to reflect later changes in applicable permanent rates" in footnote 1 to the table;

(2) Sections 3991 and 8991 are each amended—

(A) by amending column 1 of formula A in the table to read as follows: "Monthly basic pay [2] of member's retired grade.[1]"; and

(B) by amending footnote 2 to the table to read as follows: "[2] Compute at rates applicable on date of retirement."

(3) Chapter 561 is amended by repealing section 6149 and striking out the following item in the analysis:

"6149. Retired pay: computed on basis of rates of pay for officers on the active list."

(4) Sections 6151(b), 6323(e), 6325 (a)(2) and (b)(2), 6326(c)(2), 6381(a)(2), 6383(c)(2), 6390(b)(2), and 6394(h) are each amended by striking out the words "to

which he would be entitled if serving on active duty in" and inserting in place thereof the word "of".

(5) Section 6327(b) is amended by striking out the words "to which he would be entitled if on active duty" and inserting in place thereof the words "of the grade in which retired".

(6) Sections 6396(c)(2), 6398(b)(2), 6399(c)(2), and 6400(b)(2) are each amended by striking out the words "to which she would be entitled if serving on active duty in" and inserting in place thereof the word "of".

(i) Section 423 of title 14, United States Code, is amended by striking out the word "active-duty" wherever it appears and inserting in place thereof the word "basic".

(j) A member or former member of a uniformed service is not entitled to an increase in his retired pay or retainer pay because of the enactment of this Act for any period before the effective date of this Act.

(k) Section 3(b) of the Act of August 10, 1956, ch. 1041 (33 U.S.C. 857a(b)), and section 221(b) of the Public Health Service Act (42 U.S.C. 213a(b)) are each amended by striking out the words "or 'the Secretary concerned'" and inserting in place thereof the words ", 'the Secretary concerned' or 'the Secretary of Defense'".

(l) Section 1402(a) of title 10, United States Code, is amended to read as follows:

"(a) A member of an armed force who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retained pay upon his release from that duty as follows:

"Col. 1, take—	Col. 2, multiply by—	Col. 3, subtract—
Monthly basic pay[1] of the grade in which he would be eligible— (1) to retire if he were retiring upon that release from active duty; or (2) to transfer to the Fleet Reserve or Fleet Marine Corps Reserve if he were transferring to either upon that release from active duty.	2½ percent of the sum of— (1) the years of service that may be credited to him in computing retired pay or retainer pay; and (2) his years of active service after becoming entitled to retired pay or retainer pay.[2]	Excess over 75 percent of pay upon which computation is based.

"[1] For a member who has been entitled, for a continuous period of at least two years, to basic pay under the rates of basic pay in effect upon that release from active duty, compute under those rates. For a member who has been entitled to basic pay for a continuous period of at least two years upon that release from active duty, but who is not covered by the preceding sentence, compute under the rates of basic pay replaced by those in effect upon that release from active duty. For any other member, compute under the rates of basic pay under which the member's retired pay or retainer pay was computed when he entered on that active duty.

"[2] Before applying the percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than 6 months.

However, an officer who was ordered to active duty (other than for training) in the grade that he holds on the retired list under former section 6150 of this title, or under any other law that authorized advancement on the retired list based upon a special commendation for the performance of duty in actual combat, may have his retired pay recomputed under this subsection on the basis of the rate of basic pay applicable to that grade upon his release from that active duty only if he has been entitled, for a continuous period of at least three years, to basic pay at that rate. If, upon his release from that active duty, he has been entitled to the basic pay of that grade for a continuous period of at least three years, but he does not qualify under the preceding sentence, he may have his retired pay recomputed under this subsection on the basis of the rate of basic pay prescribed for that grade by the rates of basic pay replaced by those in effect upon his release from that duty."

(m) Section 6483(c) of title 10, United States Code, is repealed.

SUBMARINE PAY FOR MEMBERS TRAINING FOR DUTY ON NUCLEAR-POWERED SUBMARINES

SEC. 6. Section 301(a)(2) of title 37, United States Code, is amended to read as follows:

"(2) as determined by the Secretary concerned, on a submarine (including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto), or, in the case of personnel qualified in submarines, as a prospective crewmember of a submarine being constructed, and during periods of instruction to prepare for assignment to a submarine of advanced design or a position of increased responsibility on a submarine;".

INCENTIVE PAY FOR DUTY INSIDE A HIGH- OR LOW-PRESSURE CHAMBER

SEC. 7. Section 301(a)(9) of title 37, United States Code, is amended to read as follows:

"(9) inside a high- or low-pressure chamber;".

MULTIPLE PAYMENTS OF INCENTIVE PAY

SEC. 8. Section 301(e) of title 37, United States Code, is amended by striking out the words "only one payment" and inserting in place thereof the words "not more than two payments".

SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE

SEC. 9. (a) Chapter 5 of title 37, United States Code, is amended as follows:

(1) The following new section is added after section 309:

"§ 310. Special pay: duty subject to hostile fire

"(a) Except in time of war declared by Congress, and under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of $55 a month for any month in which he was entitled to basic pay and in which he—

"(1) was subject to hostile fire or explosion of hostile mines;

"(2) was on duty in an area in which he was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period he was on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines; or

"(3) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

A member covered by clause (3) who is hospitalized for the treatment of his injury or wound may be paid special pay under this section for not more than three additional months during which he is so hospitalized.

"(b) A member may not be paid more than one special pay under this section for any month. A member may be paid special pay under this section in addition to any other pay and allowances to which he may be entitled.

"(c) Any determination of fact that is made in administering this section is conclusive. Such a determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the determination may be changed on the basis of new evidence or for other good cause.

"(d) The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section during the preceding calendar year."

(2) The following new item is inserted in the analysis:

"310. Special pay: duty subject to hostile fire."

(b) The Combat Duty Pay Act of 1952 (50 App. U.S.C. 2351 et seq.) is repealed.

ELECTION BY MEMBERS WITHOUT DEPENDENTS NOT TO OCCUPY GOVERNMENT QUARTERS

SEC. 10. Section 403(b) of title 37, United States Code, is amended by adding the following sentence at the end thereof: "However, except as provided by regulations prescribed under subsection (g) of this section, a commissioned officer without dependents who is in a pay grade above pay grade O–3 and who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade or rank and adequate for himself, may elect not to occupy those quarters and instead to receive the basic allowance for quarters prescribed for his pay grade by this section."

FAMILY SEPARATION ALLOWANCE

SEC. 11. Chapter 7 of title 37, United States Code, is amended as follows:

(1) The following new section is inserted after section 426:

"§ 427. Family separation allowance

"(a) In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if—

"(1) the movement of his dependents to his permanent station or a place near that section is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

"(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.

"(b) Except in time of war or of national emergency hereafter declared by Congress, and in addition to any allowance or per diem to which he otherwise may be entitled under this title, including subsection (a) of this section, a member of a uniformed service with dependent (other than a member in pay grade E–1, E–2, E–3, or E–4 (4 years' or less service)) who is entitled to a basic allowance for quarters is entitled to a monthly allowance equal to $30 if—

"(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

"(2) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

"(3) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

A member who becomes entitled to an allowance under this subsection by virtue of duty described in clause (2) or (3) for a continuous period of more than thirty days is entitled to the allowance effective as of the first day of that period."

(2) The analysis is amended by inserting the following item:

"427. Family separation allowance."

SPECIAL PAY FOR SEA DUTY AND AT CERTAIN LOCATIONS

SEC. 12. (a) Section 305 of title 37, United States Code, is amended to read as follows:

"§ 305. Special pay: while on sea duty or duty at certain places

"(a) Except as provided by subsection (b) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay—

"(1) is entitled, while on sea duty, to; or

"(2) may be paid, while on duty at a designated place outside the contiguous 48 States and the District of Columbia;

special pay at the following monthly rates:

"Pay grade	Monthly rate
E-9	$22.50
E-8	22.50
E-7	22.50
E-6	20.00
E-5	16.00
E-4	13.00
E-3	9.00
E-2	8.00
E-1	8.00

"(b) Appropriations of the Department of Defense may not be paid, as foreign duty pay under subsection (a) of this section, to a member of a uniformed service who is a resident of a State, Puerto Rico, the Virgin Islands, a possession, or a foreign country and who is serving in that State, Puerto Rico, the Virgin Islands, that possession, or that foreign country, as the case may be."

(b) Nothwithstanding subsection (a), an enlisted member who, on the day before the effective date of this Act, is permanently assigned to duty at a place outside the United States or in Alaska or Hawaii, shall, during the remaining period of that assignment, be paid the basic pay to which he was entitled on that date plus special pay under section 305 of title 37, United States Code, whenever qualified thereunder, if the total of that basic pay and that special pay is more than the basic pay to which he would otherwise be entitled during that period under section 2 of this Act.

(c) The analysis of chapter 5 of title 37, United States Code, is amended by striking out the following item:

"305. Special pay: sea and foreign duty."

and inserting in place thereof the following item:

"305. Special pay: while on sea duty or duty at certain places"

SAVINGS PROVISION

SEC. 13. The enactment of this Act does not reduce the rate of dependency and indemnity compensation under section 411 of title 38, United States Code, that any person was receiving on the day before the effective date of this Act or which thereafter becomes payable for that day by reason of a subsequent determination.

EFFECTIVE DATE

SEC. 14. This Act becomes effective on October 1, 1963.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

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

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

THE CONGRESSIONAL QUARTERLY ANALYSIS OF CONGRESSIONAL ACTION

Mr. JAVITS. Mr. President, since my discussion, last Wednesday, with the distinguished majority leader, on the concern of the country over the record of this Congress, the Congressional Quarterly has published its own boxscore of congressional action on administration bills.

This boxscore shows the great disparity between the number of requests for legislation which have been sent to the Capitol by the administration and the action taken on them by the Congress controlled by the administration's party. The fact that the country as a whole is also concerned with the slow pace of our deliberation on these requests and on the many critical problems facing the Nation is indicated, Mr. President, by editorials and articles in a great variety of newspapers and publications within the last week.

Since the Congressional Quarterly analysis speaks for itself, Mr. President, I ask unanimous consent for its insertion in the RECORD, along with an editorial in this morning's Washington Post, which is, I believe, representative of several editorials on this subject.

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

CONGRESS APPROVES 5 PERCENT OF PRESIDENT'S REQUESTS

Congress as of July 31 had approved 19 of 403 legislative requests submitted so far by President Kennedy. Comparison with previous Presidential boxscores shows that at midsession Mr. Kennedy had submitted a record number of requests (topping even his own previous full-session record of 355 requests) and congressional approval was at a record low.

Mr Kennedy's approval percentage—4.7 percent—was well below his 7-percent score as of July 2, 1962, and his 10-percent score as of May 5, 1961. It was also substantially lower than former President Eisenhower's score of 13.7 percent as of May 8, 1955, during his third year in office. By July 2, 1962, action of some sort had been taken on 73.69 percent of Mr. Kennedy's requests; this year the percentage is 61.79. However, by the 1962 date Congress had given its final disapproval to 2.80 percent of the President's requests; this year every request still has a chance of final approval, although some have been rejected in a committee or on the floor of one Chamber.

So far, only three of the President's major legislative proposals (comprising eight boxscore requests) have been enacted: a feed grains program extension, an extension of corporate and excise taxes, and extension of the debt limit. Major programs on which no action has been taken include medical care for the aged and other programs to help the aging, unemployment compensation and his newly submitted immigration law revisions. Programs for mental health, medical school construction, and mass transportation have passed one House, and extensive hearings have been held in at least one Chamber on the President's education, civil rights, tax, and transportation proposals.

The status of the 403 requests as of July 31:

Nineteen (4.71 percent) had been finally approved by the House and/or Senate and were either law or awaiting the President's signature.

Five (1.24 percent) had passed both House and Senate in different forms and were awaiting final congressional action.

Thirty-eight (9.42 percent) had passed either the House or the Senate but not both.

Nineteen (4.71 percent) had been reported or approved by a committee but had not come up for a vote in the Chamber.

One hundred and fifty-three (37.96 percent) had undergone committee hearings and awaited further action.

One hundred and fifty-four (38.21 percent) had received no action at all in either the House or the Senate.

Fifteen (3.72 percent) had been rejected either in committee or on the floor but can be brought up again.

None had been rejected finally.

[From the Washington Post, Aug. 6, 1963]

LIMPING CONGRESS

With Congress still in a relaxed mood, national issues are accumulating much faster than they are being disposed of. At the beginning of the present session attention was concentrated on a single objective—enactment of a tax-reduction bill. That problem still looms large on the legislative horizon, but subsequent events have added to it the civil rights bill, the railroad emergency problem, and now the nuclear test-ban treaty. Yet Congress ambles along with no apparent concern about its accumulated burden.

The latest report of the Congressional Quarterly shows that Congress has approved only 4.7 percent of President Kennedy's legislative requests at the end of July—the target date for adjournment under the LaFollette-Monroney Act. The only three major Kennedy bills to be passed by both Houses merely extend previous legislation dealing with feed grains, corporate and excise taxes, and the debt limit. On a percentage basis, the present congressional score is less than half that of 1961 and is still farther below the record for former President Eisenhower's third year in office. The Congressional Quarterly describes it as a "record low."

Quite a number of bills have passed one House and are awaiting action in the other, and none of the President's recommendations has been finally rejected. But these facts scarcely relieve the dismal general picture. Although nearly 7 months have elapsed since the 88th Congress assembled, more than 76 percent of the President's recommendations have either been ignored or have gotten no further than committee hearings. Viewed from any angle, this is a sorry performance.

The outlook is the more discouraging because Congress has shown little interest in improvement of its own creaking machinery. After 1 day of hearings on proposals for a new study of congressional deficiencies, this hopeful project again appears to have been laid on the shelf. A flaccid and limping Congress seems unwilling to face the facts about its own inadequacies.

Mr. MANSFIELD. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. MANSFIELD. Did I correctly understand the Senator from New York to mention my name in connection with what he has just said?

Mr. JAVITS. Only in recalling that the Senator had replied to my statement.

Mr. MANSFIELD. Mr. President, if the Senator from New York will yield further, I would express the hope that he would not join in the speculation which the press, the television, and the radio of the country seem to indulge in every year; they seem to find great satisfaction in pointing to Congress as being dilatory, being behind in its duties, and not living up to its responsibilities.

Of course I realize that these media of communications have to find ways and means to keep their circulation going and their audiences aware. But I point out that the committees of the Senate have been working long and arduously; that, as the majority leader, I have no complaint with what they have done; and that, so far as the Senate is concerned, before we are through we shall have a respectable record.

So I would hope no Member of this body would find fault with the Senate, when the committees are working hard and when all its Members collectively are doing the best they can in discharging

the responsibilities which are theirs because of the office they hold.

Mr. JAVITS. In reply to the majority leader, I do not consider it finding fault when one calls to the attention of one's colleagues his views as to our responsibilities in respect to the state of the Nation and the state of the world. I do not charge anything but good faith. I do not charge anything in respect of hard work. Every Senator works hard. I do not believe I need to apologize for the number of hours I put in, nor does the majority leader, the minority leader, or any other Senator. I only pointed out last week the mountain of labor and the number of crises which we face—beginning with civil rights, the nuclear test-ban agreement, the railroad strike, endemic unemployment, and all the other issues which I mentioned—what we have done about them, and the urgency of their timing. I am very glad to join with the majority leader in putting the question in focus. It is a question of whether we are acting in time in terms of the repute of the Congress and the country as the key legislative body to meet the crises before us. We may show the best faith in the world, but the question is, Are we in time in meeting our responsibilities? That question does not charge any bad faith. In my opinion, we are credited with the utmost good faith. The question is, Are we meeting our responsibilities? On that question I believe the Congressional Quarterly bears out what I said last week with respect to the stand-still nature of the Congress.

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

Mr. JAVITS. I yield.

Mr. MANSFIELD. Mr. President, one hears a great deal of criticism these days to the effect that the 88th Congress is a do-nothing Congress. Although it is true that the Congress as a whole has not taken final action on a large part of the President's program, this seems to me to be an inaccurate measure of the work that has been completed by Congress at this stage of the session. A tabulation appearing in the August 5 edition of the Washington Post shows that each House has separately completed action on a significant number of the President's proposals, and I ask unanimous consent that the table be printed at this point in the RECORD.

These measures, of course, must be approved by both Houses and the remainder of the session should see final enactment of a great many of these bills. I hope that the Senate will complete action on the military pay raise and public defender bills today, for example.

I might also point out that in many instances the Constitution requires the other body to act on revenue matters before the Senate may itself consider these bills.

All in all, Mr. President, I do not feel that the situation is as dark as it has been pictured, and again I predict that by the time the session is over, the Congress will have amassed a most respectable record of accomplishment.

I ask unanimous consent to have printed at this point in the RECORD the status of the President's program by committees.

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

Congressional Boxscore, major legislation in 88th Congress

[As of Aug. 2, 1963: ▲ Scheduled, ★ in process, ● completed]

	House					Senate							
	Hearings	Reported	Debate	Passed	Rejected	Hearings	Reported	Debate	Passed	Rejected	Final action	Signed	Vetoed
Tax cut and reform	●												
Corporate, excise tax extension	●	●	●	●		●	●	●	●		●	●	
Debt limit	★												
Foreign aid authorization	●					●							
Medical schools	●	●	●	●									
Mental health	●					●	●	●	●				
College aid	●	●				●							
Youth employment	●	●				●	●	●	●				
National Service Corps	★					●	●						
Rail settlement	★					●							
Mass transportation	●	●				●	●	●	●				
Transportation rate changes	●					●							
SEC amendments						●	●	●	●				
Omnibus civil rights	★					★							
Area redevelopment	★					●	●	●	●				
Conservation fund	●					●							
Wilderness system						●	●	●	●				
Cotton controls	●	●				●							
Feed grains	●	●	●	●		●	●	●	●		●	●	
Civil defense shelters	●												
Draft extension	●	●	●	●		●	●	●	●		●	●	
APPROPRIATIONS													
Agriculture	●	●	●	●		●							
Defense	●	●	●	●		●							
First supplemental, 1963	●	●	●	●		●	●	●	●			●	
Independent offices	★					★							
Interior	●	●	●	●		●	●	●	●			●	
State, Justice, and Commerce	●	●	●	●		★							
Labor-HEW	●	●	●	●		●	●						
Treasury-Post Office	●	●	●	●		●	●	●	●			●	
District	●	●	●	●									
Foreign aid	●												
Legislative	●	●	●	●		●	●	●	●				
Military construction	●												
Public works	●					★							
DISTRICT OF COLUMBIA AREA													
Corporal punishment	●	●	●	●									
Urban renewal	★					●	●						
Federal payment	●	●	●	●		●	●	●	●				
Chancery zoning	★					●	●	●	●				
Crime	●	●				●							

Congressional Boxscore, major legislation in 88th Congress—Continued

PARTY LINEUP

	Democrat	Republican	Vacancies
House	257	177	1
Senate	67	33	0

AUGUST 5, 1963.

STATUS OF PRESIDENT'S PROGRAM BY COMMITTEE

AERONAUTICS AND SPACE SCIENCES

1. Space authorization: Senate Calendar—floor action August 7.

AGRICULTURE

Action completed: (1) Feed grains, Public Law 88–26.

House Calendar: (1) Cotton program: Rule reported, July 24; Senate Committee completed hearings May 27.

Markup:

1. Dairy program: Senate Committee, August 7; House Committee hearings concluded May 1.

2. Food stamp program: House informal meeting July 17.

Hearings concluded:

1. Amendment to Watershed Act: Senate Committee hearing June 3; House Committee, no action.

2. Land use adjustments—raise limitation: House Committee hearings June 24–27; Senate Committee, no action.

APPROPRIATIONS

Action completed:

1. Agriculture supplemental for 1963: Public Law 88–1.

2. Supplemental for 1963: Public Law 88–25.

3. Interior for 1964: Public Law 88–79.

4. Treasury—Post Office for 1964: Public Law 88–39.

In conference: (1) Legislative for 1964.

Senate Calendar: (1) Labor-HEW for 1964: Senate floor action August 6.

Passed House: 10.

Hearings concluded: House, 1; Senate, 1.

Hearings in progress: House, 3; Senate, 4.

ARMED SERVICES

Action completed:

1. University military training extension; Public Law 88–2.

2. Military procurement: Public Law 88–28.

Senate Calendar: (1) Military pay: Passed House May 8; passed Senate August 6.

Passed House: (1) Military construction, June 5.

Markup: (1) Fallout shelter: House subcommittee in executive sessions.

No action:

1. Stockpile disposal.

2. Food stockpile for civil defense.

BANKING AND CURRENCY

Action completed: (1) Silver purchase repeal; Public Law 88–36.

In conference: (1) Export-Import Bank extension.

Passed Senate:

1. Area redevelopment: House Calendar.

2. SEC amendments: House committee.

3. Mass transit: House Calendar.

No action:

1. Housing for elderly.

2. Increase insurance coverage on banks and savings and loans.

COMMERCE

Passed House: (1) Equal time suspension—Senate committee hearings concluded June 28.

House Calendar: (1) Dulles-Washington National Airports management—Senate committee, no action.

Hearings concluded:

1. Airport construction.

2. International air fares.
3. Public accommodations.
4. Transportation bills: House committee concluded; Senate committee in recess.
5. Railroad dispute.

No action:
1. Limit right of certain air carriers to receive subsidy payments.
2. Broaden authority of FPC to permit investigation of gas industry.

DISTRICT OF COLUMBIA

In conference: (1) District of Columbia fiscal affairs.

Passed Senate: (1) National Cultural Center extension.

Hearings concluded: (1) District of Columbia Rapid Transit—House committee, July 31; Senate committee, no action.

No action: (1) Home rule.

FINANCE

Action completed:
1. Corporate-excise tax extension: Public Law 88–52.
2. Public debt ceiling: Public Law 88–30.
3. Air transportation tax: Public Law 88–52.
4. Veterans' family benefits: Public Law 88–21.

Calendar:
1. Maternal and child health: House.
2. Public debt: House. (Senate must wait on House.)

Markup: (1) Tax reforms and reduction. (Senate must wait on House.)

No action:
1. Public welfare work-training.
2. Allow tax credit for contributions to National and State political committees. (Senate must wait on House.)
3. Presidential campaign funds reporting act. (Senate must wait on House.)
4. Medicare. (Senate must wait on House.)
5. Social Security Act amendments. (Senate must wait on House.)
6. Temporary interest equalization tax. (Senate must wait on House.)
7. User charges. (Senate must wait on House.)
8. Unemployment compensation. (Senate must wait on House.)

FOREIGN RELATIONS

Action completed:
1. International coffee agreement.
2. Foreign Service buildings.

Passed Senate: (1) Disarmament Agency, ceiling increase, June 17—House Foreign Affairs, no action.

House Calendar:
1. U.N. Participation Act amendment: No action in Senate.
2. Foreign aid authorization: House Foreign Affairs to order reported August 6; Senate Foreign Relations in last phase of markup.

Markup: (1) National Academy of Foreign Affairs.

Hearings:
1. International Bank for Reconstruction and Development; capital stock increase: House Banking hearing July 11; Senate Foreign Relations, no action.
2. Inter-American Development Bank, increase U.S. share of Fund for Special Operations: House Banking hearing July 11; Senate Foreign Relations, no action.

No action:
1. Peace Corps expansion.
2. International Development Association, enlarge resources.

GOVERNMENT OPERATIONS

Action completed: (1) Reorganization plan I, Roosevelt Library, July 26.

Passed House:
1. Reorganization Act extension, June 4; no Senate committee action.
2. Presidential Transition Act, July 25; no Senate committee action.

No action: (1) Department of Urban Affairs.

INTERIOR

Action completed: (1) Outdoor recreation; Public Law 88–29.

Passed Senate:
1. Pacific Northwest Power; House Calendar.
2. Water resources research; House committee hearings recessed, July 23.
3. Wilderness preservation; House committee.
4. Shoreline recreation areas: Canyonlands, Lake Mead.

Markup: (1) Land conservation fund; House Interior, August 5, 6; Senate committee hearings concluded March 8.

No action: (1) Water resources planning.

JOINT ATOMIC ENERGY COMMITTEE

1. AEC authorization for 1964; Public Law 88–72.

JUDICIARY

Calendar: (1) Public defenders. Passed Senate August 6; on House Calendar.

Hearings concluded:
1. Civil Rights Commission extension: Reported to full committee July 10.
2. Omnibus civil rights bill: House hearings concluded August 2; Senate committee recessed August 1.

No action:
1. Immigration amendments.
2. Patent fee increase.

LABOR

Action completed: (1) Equal pay for women, Public Law 88–38.

Passed Senate:
1. Youth employment, April 10; House Calendar.
2. Migratory labor, four bills: House committee, no action.
3. Mental health, May 27: House Interstate.

Senate Calendar: (1) Domestic Peace Corps; floor action, August 7.

Passed House: (1) Medical school bill; Senate committee, no action.

Hearings in recess: (1) Juvenile Delinquency Act extension; House committee, May 6.

Hearings concluded:
1. FEPC hearings: Senate committee, August 2.
2. Education, omnibus, June 27; House committee has reported several bills to House Calendar.
3. Manpower and employment: Approved for full Senate committee, July 30.

No action:
1. Food and drug.
2. Railroad retirement amendments.
3. Narcotics control.
4. Group practice medical and dental facilities.
5. Create new Bureaus of Community Health and Environmental Health.
6. Hill-Burton Act extension.
7. Vocational rehabilitation expansion.
8. Minimum wage extension.

POST OFFICE AND CIVIL SERVICE

Hearings: (1) Federal Salary Adjustment Act: House hearings start August 13; Senate committee, no action.

No action: (1) Civil service retirement system, improve financing.

PUBLIC WORKS

Passed House: (1) Air pollution control, July 24; Senate committee, no action.

Hearings completed:
1. National forest roads and trails: Senate committee hearings concluded, July 31.
2. Water pollution control.

Mr. JAVITS. Mr. President I ask unanimous consent that I may proceed for an additional 3 minutes.

The PRESIDENT pro tempore. Morning business is closed.

Mr. JAVITS. Mr. President, have I the floor?

The PRESIDENT pro tempore. The Senator from New York has the floor.

Mr. JAVITS. I was interrupted—I am sure quite unwittingly—and thought I had used my available time.

Mr. MANSFIELD. The Senator did not ask for a certain length of time. He has the floor. As soon as he finishes, we hope that the chairman of the Committee on Armed Services will be recognized.

Mr. RUSSELL. Mr. President, if the Senator will indulge me, I have been seeking recognition so that I might yield to the Senator in charge of the bill. The bill is in the charge of the Senator from Nevada [Mr. CANNON], who is chairman of the subcommittee which conducted the hearings and wrote the bill. He will be in charge of the bill on the floor of the Senate.

Mr. JOHNSTON. Mr. President——

Mr. JAVITS. Mr. President, if the Senator from South Carolina desires me to yield, I shall be glad to do so.

Mr. JOHNSTON. Mr. President, I ask the Senator from New York to yield 1 minute to me so that I may speak on the subject which he and the Senator from Montana were discussing.

Mr. JAVITS. I yield.

Mr. JOHNSTON. Mr. President, I commend the majority leader and the minority leader for seeing to it that there are only a few bills remaining on the calendar. The committees have not reported bills to the Senate for action. The majority leader and the minority leader have been making it possible for committees to meet on various days when the Senate was not in session in order that the committees might do their work and report important bills. To show how the Senate is moving, I point out that it has taken up a bill which does not even appear on the calendar.

Mr. MANSFIELD. The Senator is correct, but it is a bill which has been reported; and it merits action. The Committee on Armed Services has endeavored to face a need in our armed services. I am sure that no Senator would disagree with that statement.

Mr. JOHNSTON. I do not object to that statement, but I wished to invite attention of Senators to the fact that the majority leader was expediting the business of the Senate as fast as possible when committees reported bills. I join the majority leader and the minority leader in urging that the committees act as fast as possible to conclude their work on important bills. Of course, there are some bills that may not be reported from committees. At the same time, there are other bills that ought to be reported to the Senate and acted upon.

DEATH OF JAMES D. ZELLERBACH

Mr. JAVITS. Mr. President, I would like the Senate's attention to the death of James David Zellerbach, former Ambassador of the United States to Italy, former Administrator of the Marshall plan in Italy in the years 1948–50, outstanding business and industrial and civic leader on the Pacific coast, and, in my view, one of the most distinguished Americans of our time.

Mr. James D. Zellerbach, together with his brother, Harold Zellerbach, was the guiding star of the Crown Zellerbach Corp. of California, a worldwide business with a gross volume of approximately $500 million a year and with exemplary employee relations. One of the most outstanding nonstrike records of any great company in the United States was compiled by this company under Mr. Zellerbach's direction throughout the decades in which he was its principal executive officer.

Somewhat late in his life he entered public service as a representative of management at the International Labor Organization in 1945. There he saw the maneuvering of the Soviet Union in a way which called him sternly to public duty. He then became our gifted and extremely successful Administrator of the Marshall plan in Italy. Following that assignment he was appointed by President Eisenhower as Ambassador to Italy, where he made an outstanding record, convincing Washington that the Italians should not be taken for granted. He is credited, in both his ministerial and ambassadorial capacities, with having been an important factor in the miracle of the Italian economy.

J. D. Zellerbach in his personal life was one of the most delightful men I have known. He had many friends in this Chamber. He was a gentleman winegrower in California. He was an outstanding civic leader of San Francisco, devoting much of his time to the symphony. He led a dedicated, beautiful life. He was a very close personal friend of mine for nearly 30 years.

It is with deep sorrow that I announce his passing and pay my tribute to J. D. Zellerbach—a great American, a great businessman, a great servant of the American people at home and abroad.

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

Mr. JAVITS. I yield.

Mr. KEFAUVER. I take this opportunity of joining the distinguished Senator from New York in paying tribute to the life and character and public service of J. D. Zellerbach. It was my privilege to know him for a number of years, as I knew his brother, Harold. Always, in connection with their successful enterprises, they have taken time for public service, and for ably serving our Government.

I knew that many times, as Ambassador to Italy, he was called upon to help in connection with some enterprise, or to see that Americans were properly represented and that their problems were looked after. He was one of our great and capable Ambassadors. His service to our country will be greatly missed, as he will be by many of us who knew him personally.

Mr. JAVITS. I thank my colleague from Tennessee. I know that Mr. Zellerbach's family—with whom I am very close—will deeply appreciate his gracious words.

I also wish to refer to Mr. Zellerbach's outstanding service with the Committee for Economic Development, with which he was one of the guiding lights. I express upon the RECORD my deep sympathy and condolences to Hana Zellerbach, his widow, to his children, to his brother, and to the other members of his family.

I ask unanimous consent to have included in the RECORD with my remarks the obituary to James Zellerbach from the New York Herald Tribune of Monday, August 5.

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

JAMES ZELLERBACH: DEDICATED AMBASSADOR

(By Barrett McGurn)

James David Zellerbach, 71, died Saturday in San Francisco of an inoperable brain tumor. As an industrialist, administrator and Ambassador, he served as an example of how Americans in a single generation have grown up to responsibilities around the world.

A reporter asked him during his 4 years as American Ambassador to Rome (1956–60) whether he had changed his opinion about U.S. diplomacy. He had been a giant in the field of industry, chairman of the $450 million a year Crown Zellerbach paper business. Had he considered the "striped pants" diplomats "cookie pushers" as the saying had it? Had he modified his views?

No, he said, until the days after World War II, when he was drawn into diplomacy, he had never even given the subject a thought.

He had been immersed in his 25,000-employee operation. He had made a point of keeping his staff informed on how the firm was prospering, just how the "golden goose" was doing and just why it was to each man's advantage to help the company do well. Wages, too, were high. Such a spectacular strike-free record was the result that the Crown Zellerbach head was tapped by management groups to represent them in the International Labor Organization, a three-sided government-management-labor group.

That, in 1945, when he was 54, was the eye opener. At the ILO meeting in Paris the businessman, never much interested before that in anything but west coast lumber and paper mills, watched the Soviet Union maneuvering in a manner which astonished and alarmed him. His interest in thwarting the Soviet attack and in international affairs never waned thereafter.

From 1948 to 1950 Mr. Zellerbach served as Administrator of the Marshall plan in Italy, supervising the spending of hundreds of millions of dollars in a successful pump-priming effort which was climaxed in the "miracle of Italy," a boom such as the ore-scant nation never before had known.

The Marshall plan period, under a Democratic administration, President Truman's, was followed by the ambassadorship under the Republican President Eisenhower. There were signs during the first period that Mr. Zellerbach was dubious about the land-dividing program of the Marshall plan era as socialistic and counterproductive. If so, his embassy superiors, led by James C. Dunn, a career Ambassador, overrode him.

During his own ambassadorship he soft-pedaled the colorful, outspoken anti-communism of the era of the dashing Ambassador Clare Boothe Luce, smoothed over relations with mildly leftist, mildly neutralist, Communist-aided President Giovanni Gronchi, and managed to convince Washington that the Italians should "not be taken for granted."

It was a colorless ambassadorship in one sense but it was also a prosperous one. Italy made giant strides economically and, when the chips were down, gave Mr. Zellerbach what he wanted—such as split-second landing permissions for American planes needing refueling on the way to quelling of the Lebanon troubles.

During his years in the former royal palace on Rome's Via Veneto, the present American Embassy, the businessman who had never given diplomacy and world affairs a thought turned often to the question of whether the U.S. agent abroad is, as charged, an "ugly American."

He once told an interviewer:

"You can find duds, of course, in any field. But nowhere have I found a higher level of dedication than among American diplomatic employees abroad."

Two years in a place and then kids out of school, furniture into vans, and assignments to a new language, a new climate, another mass of friends to meet and to embrace. That the businessman said, was not the configuration of an "ugly American."

The bestselling blast against U.S. representatives abroad, "The Ugly American," had lampooned envoys for not knowing languages. That, too, upset the San Franciscan. He never did learn Italian well enough to do without an interpreter on official occasions, but he and his wife, Hana, did learn to handle the language well and fluently at parties.

Do Russians always do better?

Mr. Zellerbach, nearing 70, was delighted after protocol forced him to make a stiff social call on the Soviet Ambassador to Rome. Dave, as his friends knew him, was well enough along in Italian by that time to mouth a few empty nothings to the Soviet in Italian. The latter replied in French. Neither seemed to know what the other was saying. It was a long time before test-ban treaties and neither seemed to care. The two separated with relief when the protocol minimum elapsed. But, as Dave confided to friends, it was he who had been able to use Rome's own tongue, and it is always the local language that counts.

In retirement Dave Zellerbach had a joy, cultivation of a Sonoma, Calif., vineyard in which he was determined to produce a Pinot noir red wine as fine as France's great Romanee St. Vivant, and a Chardonnay white equal to Europe's best. The white was good enough to command $6 a bottle in San Francisco restaurants but, last year, Dave Zellerbach said that he felt that his Pinot noir 1959 still needed 6 or 7 more years to reach its peak. He was not yet drinking it and would not sell until he did. Wine is a European language all its own and that, too, Dave was speaking.

Dave Zellerbach was the third generation of a paper family whose operations began in 1870 in a San Francisco basement. He had memberships in 50 educational and civic organizations, was a chairman or director of 7 leading economic or research groups, and had ranking roles in 7 major business and banking institutions. He was long president of the San Francisco Symphony Association.

MRS. JANET LITTLE

Mr. JAVITS. Mr. President, one of the most difficult of tasks is to find words to express our feelings on the death of a loved one. And one of the most eloquent and saddest tributes I have ever read was published in an editorial in the Ogdensburg, N.Y., Journal on July 22.

In this issue, the publisher, Franklin R. Little, put into words the thoughts and the emotions of a host of New Yorkers—and scores of people throughout the world who had come to know and respect Janet Pennoyer Little, his wife. Mrs. Little was stricken in Japan while accompanying her husband on one of their many trips throughout the world, and

was flown to a Montreal hospital, where she died July 20.

I ask unanimous consent that Mr. Little's editorial be placed in the RECORD.

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

JANET PENNOYER LITTLE

(By Franklin R. Little)

I have written many editorials in my long span of years as a newspaperman. This is the saddest one I have ever written, the most difficult, and the one for which I feel the most inadequate. I pray I had the talent and the gift to express the depth of my sorrow and my true feelings.

When I was called to the Royal Victoria Hospital in Montreal early on the morning of last Saturday I was told that my wife had passed away shortly before. My happiest memory is that I could have been with her all evening until nearly midnight the night before her death. The nurse who was with her at the last told me: "Mrs. Little was the most thoughtful and considerate patient I have ever had. I sponged off her face early in the morning with ice cold water. She smiled with that sweet smile of hers and said 'thank you so much,' and then she went to sleep, never to wake again. She was always like that. She was never demanding or exacting. She was always sweet, gentle, and so thoughtful of those who were helping her. She was a beautiful character."

My wife died as she had lived. With a smile despite her long illness, her pain and suffering, the loneliness and discouragement she must have felt. She died with a word of appreciation and a "thank you" for the nurse who had administered to her and sought to help her. She was the most selfless and unselfish person I have ever known. She lived to do for others. She sought nothing for herself. She found her greatest satisfaction and her greatest happiness in doing something to help other people.

Since her death I have been overwhelmed with the tributes she has received from people of all walks of life. The humblest and the most simple loved her for her many acts of kindness and generosity and her unfailing courtesy. People whom I have never known have come to to tell me of some thoughtful and kind thing she did for them. Many who were ill and shut-in or lonely and with few friends have called me or sent me a message to tell me how she unfailingly came to see them, brought flowers or vegetables from her garden, came to cheer them up with her sweet smile and radiant personality. She made them feel that someone did care for them and wanted to help them.

She was devoted to her sons and their families, was an exemplary mother and a loving grandmother. But far beyond the limits of her own family she was respected and beloved by many hundreds of people who had met her or knew her either intimately or casually. If there was ever a mortal being with the purity of soul of an angel it was she. This is not only my opinion but it has been expressed to me many, many times since her illness and finally her passing last Saturday. She was a sincere and believing Christian. As I wrote from Japan when she was so ill there in the U.S. Naval Hospital in Yokosuka, her religion, her deep belief in God and in His Son carried her through crisis after crisis and sustained her when a less courageous and less dedicated soul would have surrendered.

To me she was my dearest friend. She was my best companion. I was always most happy when I was in her company. When she was taken so ill in Japan she said to me one time: "I don't know what is going to happen to me. But nothing can dim or erase the memories of my wonderful life with you, with all of its tribulations and its triumphs, its defeats and its victories. We have wonderful memories of our life and experiences which nothing can ever dim for me."

Her smile is gone, her radiant personality is no more, but every life which she touched was ennobled. Her influence went far beyond the limits of her own family. It was felt by the entire community and by a host of devoted friends all over the United States and in fact the world. The outpouring of sympathy and grief attests to that.

Newspapermen mark the end of a story with the number "30." That means it is finished, it is ended, there is no more. I cannot end this with "30," Janet Pennoyer Little was a personality who can never die. The body may die and go. But her beautiful soul, her kindliness, her thoughtfulness, her generosity, her loyalty, her purity, her devotion, and her courage will live long after in the hearts and minds of all of us who were so highly privileged to know and love her.—Franklin R. Little.

POSITION OF GOVERNOR ROCKEFELLER ON PUBLIC ACCOMMODATIONS

Mr. JAVITS. Mr. President, some question was raised in the hearings before the Committee on Commerce with respect to the alleged failure of Governor Rockefeller of New York to express himself on the pending public accommodations civil rights bill before that committee.

On July 19, 1963, the Governor of New York released the text of a letter to Senator WARREN G. MAGNUSON, chairman of the Senate Committee on Commerce, fully supporting and endorsing the legislation before the committee; and pointing out that New York has had legislation of this type since 1881, which has been brought up to date, and that New York's experience with it has been magnificent. Ninety-eight percent of all cases have been settled by conciliation and mediation. New York was the pioneer, later followed by 22 other States which enacted similar legislation.

In view of the fact that there was some question raised about the Governor's position, I ask unanimous consent that the letter may be printed in the RECORD.

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

STATE OF NEW YORK,
EXECUTIVE CHAMBER,
Albany, N.Y., July 19, 1963.

HON. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: I am pleased to respond to your request for my comments regarding Federal legislation designed to eliminate discrimination in places of public accommodation. You have also invited my comments on the experience of New York State under its statute barring discrimination in places of public accommodation, resort, or amusement.

At the outset, let me express my strong conviction that the enactment of Federal legislation to help assure that each of our citizens will have equal access to and treatment in all public places is urgently needed. The moral basis for legislation having this objective grows out of the basic fact that our Nation, under God, was founded on and draws its sustenance from the concept of the worth of the individual and the brotherhood of man.

I am convinced that human rights and individual dignity require constant and continuing protection through law at every level of our society, if these fundamental rights are to be, and remain, a reality for all our people.

As far back as 1881, New York enacted a law making it a misdemeanor to deny any person "the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of all hotels, inns, taverns, restaurants, public conveyances on land or water, theaters, and other places of public resort or amusement, because of race, creed, or color."

Thus, the principle of equal opportunity of access to public accommodations is well established in New York.

This principle was further promoted in our law against discrimination, which, as I shall explain, provides remedies far more practical than the criminal proceedings which the 1881 law required. New York's comprehensive law against discrimination, first passed in 1945, originally covered only employment and labor union membership. An amendment to the law in 1952 extended coverage to places of public accommodation, resort, or amusement. Subsequent amendments, enacted in 1955, 1956, 1961, and 1963, extended the coverage of the law to 95 percent of the housing in New York State, and also to the sale and rental of commercial and business space. An amendment enacted in 1962 broadened the employment aspects to encompass apprenticeship training.

The public accommodations provisions of the law against discrimination have been amended twice during my administration: In 1960 and 1962, to expand the rights of all people to the enjoyment of all public facilities.

I am sure that your committee is fully aware of the highly successful experience of New York State in the application and administration of this law. The law is administered by the State commission for human rights (previously known as the State commission against discrimination), a seven-member commission appointed by the Governor by and with the advice and consent of the senate. The members are appointed for staggered 5-year terms.

As was the case with regard to discrimination in employment and as has been the case in other areas of its jurisdiction, the commission initiated a statewide educational program immediately after the public accommodations amendment was passed. The commission held a series of public meetings with leaders representing business, industry, the clergy, labor, and community organizations in all major cities and communities throughout the State.

These educational programs provided the commission with (1) the opportunity to explain the law, its procedures and goals, in an effort to obtain voluntary compliance with the spirit and the letter of the law; and (2) to allay the fears of those who felt that dire consequences would result from such legislation.

The commission's next step was to reorganize its investigation staff and gear it to handle complaints that might be filed.

The commission's complaint process is as follows: When a verified complaint is filed with the commission for human rights, the chairman designates one of the commissioners to make an investigation of the charges. If the investigating commissioner finds that discrimination probably occurred, he "shall immediately endeavor to eliminate the unlawful discriminatory practice complained of, by conference, conciliation, and persuasion."

If the conciliation procedure fails, a public hearing is held. If the Commission finds that an unlawful discriminatory practice has been committed, a cease and desist order is issued. Failure to comply with such

an order subjects the offender to the possibility of a fine of not more than $500 or imprisonment for not more than 1 year, or both, subject to review by the courts. Any person, employer, labor organization, or employment agency, who or which shall willfully resist, prevent, impede, or interfere with the Commission or any of its members or representatives in the performance of duty under the law against discrimination or shall willfully violate an order of the Commission, shall be guilty of a misdemeanor and subject to punishment therefor (Executive Law, secs. 297, 298, 299).

The crucial fact for your committee to consider, in my view, is that the conference, persuasion, and conciliation technique has proved effective in approximately 98 percent of all cases involving public accommodation. These successful cases are brought to a conclusion with respondents agreeing to such terms as these:

1. An apology to the complainant.
2. An invitation to the complainant to use the facilities in the future.
3. The issuance of a policy settlement by the respondent that facilities involved are accessible to all people regardless of race, creed, color, or national origin.

Only in the rarest of cases has it been necessary to hold public hearings or impose sanctions in public accommodation cases.

In addition to the accomplishment of its major objective, the public accommodations provisions of the law have had two important byproducts.

First. The removal of discrimination in places of public accommodation has been greatly instrumental in creating the climate for greater mutual understanding among persons of differing races, creeds, and colors. This understanding has, in turn, made it easier to achieve advances in eliminating discrimination in other fields, such as housing.

Second. The law has led to greater use of public accommodation facilities throughout the State by Negroes and other minority groups, thereby increasing the income and profits of individual businesses in particular, and improving the economic health of the State in general. Commerce has clearly been promoted by the regulation achieved by the law.

I believe Federal legislation, based on the principles of the New York law, would be highly constructive.

Twenty-two States have followed the lead of New York in the enactment of some form of antidiscrimination legislation, and innumerable counties and cities also have passed similar laws. I hope that all the States will take action against discrimination, because it is a responsibility of the States to insure equal opportunity for all the people. However, it is obvious that Federal action is necessary under the circumstances where many States have not acted.

It is my considered judgment that action must be taken at this session of the Congress.

I appreciate this opportunity to present my views to you and the members of your committee.

Very truly yours,

NELSON A. ROCKEFELLER.

NUCLEAR TEST BAN TREATY

Mr. JAVITS. Mr. President, I should like to make a very brief statement on the nuclear test ban treaty.

Mr. President, ever since the end of World War II, every administration has sought means to bring the international arms race under control. In order to implement this objective, President Eisenhower instituted negotiations in 1958 for an agreement banning the testing of nuclear weapons. Proposals were advanced for prohibitions on all testing as well as in limited environments. Efforts directed toward a comprehensive test ban failed, then as now, because the Soviet Union would not agree to matters we consider vital to our security. The greatest obstacle related to the inspection and verification of underground tests.

Yesterday in Moscow, representatives from the United States, United Kingdom, and the Soviet Union signed a treaty banning nuclear explosions in the atmosphere, outer space, and underwater. This treaty must first receive the advice and consent of the Senate to its ratification. This responsibility weighs heavily upon us for the entire world will be following our deliberatons with profound interest.

In considering whether the advantages of this treaty are outweighed by the risks involved, we will not be plagued by problems connected with the detection and inspection of underground tests. They are not to be prohibited under this treaty.

We must, however, consider the possibility of Soviet cheating in prohibited environments, or of the Soviet's seeking advantage by a quick pullout from the treaty when fully ready to test again; the very situation we ran into during the past 2 years with the renewal of bomb testing by the U.S.S.R. immediately upon the giving of notice that it was ending its self-imposed ban.

Mr. President, I address myself briefly to these subjects because I believe that, in the impending debate which will take place before the country, those who have a position ought to take it, and they ought to participate in that debate. This will be most useful to our people.

I think the system which is contained in the treaty for policing is reciprocal, and that is based on the historic precedent of the Baruch-Hancock plan, which remains to this day, in my view, the best basic principle for dealing with the Soviet Union, though it was first promulgated in 1947.

I understand that the United States already has a national detection network that permits the detection and identification of nuclear tests in the atmosphere, underwater, and in space. Moreover, there is no point in attempting to carry out types of tests in these environments that could be conducted freely and legally underground.

I understand that by means of underground testing, a nation can conduct roughly all weapons development tests pertaining to tactical and intermediate yield strategic weapons. It can also conduct many useful weapons effects tests. Tests of very high yield weapons and certain particular weapons effects experiments cannot be conducted underground.

Very high yield tests can be easily detected in the atmosphere and underwater. And again I understand that we already have the capability to construct a system of observation that would make tests deep in outer space almost impossible to conceal.

A party contemplating clandestine tests in space has more to consider, however, than just the possibility of getting caught. It is an extremely expensive undertaking and is time consuming. To obtain results from a test millions of miles away could take weeks or months. This is further compounded by any number of technical difficulties that would have to be overcome to gain even a limited knowledge from the explosion.

These factors, coupled with the fact that the Soviet Union has already tested large megaton weapons, would seem to make it extremely unlikely that cheating would be attempted in this space field. Unlike the Soviet Union, we have, by choice, concentrated on a larger number of smaller yield weapons. As the President said in his August 1, 1963, news conference, thirty 3-megaton bombs do more damage than a single 100-megaton bomb because the latter does not move up in arithmetical progression.

Certain very small weapons effects tests in the atmosphere might go undetected, but I am informed that the significance of the data obtained from such tests would not be great, and, of course, the violator would always run the risk of detection with all the worldwide consequences this would bring.

These atmospheric tests have most often been spoken of in the context of developing an antimissile missile, which, as the President also indicated in his August 1 news conference, "is beyond us and beyond the Soviets technically." Our development of an antimissile is proceeding, but any ABM defense is susceptible to saturation—incoming missiles launched in such quantities as to overwhelm the defensive missiles. Moreover, the technical difficulties involved in the launching of dummy missiles to lead the defensive missiles astray are extremely complex. Therefore, the problem is not primarily one of further testing, but of discrimination, selectivity, and targeting. That the Soviet Union would consider it worthwhile to risk cheating in this area for minimal or nonexistent gains seems unreasonable.

Proponents of the test ban treaty, in enumerating some of its advantages, state that it would: First, constitute a first step in preventing the further spread of nuclear weapons to other countries, thereby lessening the danger of nuclear war; second, eliminate the hazards of radioactive fallout; third, slow down the pace of the arms race, and fourth, be a first step toward a hope of reducing world tensions and toward broader areas of enforceable agreement. I am, however, under no illusion as to what continues to be the grand objective of the U.S.S.R. as the leader of its Communist bloc.

In addition to these, I might add another advantage in answer to those who assert that the treaty would give the Soviet Union a chance to catch up with us legally in tactical weapon capability by testing underground. They could do this with or without the treaty, if they wished, but without the treaty the rate at which they could catch up with us would be greater since they could test in all environments.

Mr. President, on the basis of what we know now, I am inclined to agree that the advantages which would accrue to

us and to the world through such a treaty would so far outweigh the risks as to dictate the Senate consenting to the treaty. I think the President, on this issue, deserves bipartisan support from Republicans who feel that way in good conscience at this time, so that the debate may be held with the most available support for each position, contributing to it as fully as possible. I believe that Senators who cannot decide, who have honest doubts, and want to hear the questions answered, if they feel they have not yet been answered, may properly stand aside; but Senators who can participate, have a duty to do so in the debate and in announcing their position, as I do today.

I yield to the Senator from Florida——

ORDER OF PROCEDURE

Mr. CANNON. Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from Georgia without losing my right to the floor.

The PRESIDING OFFICER (Mr. INOUYE in the chair). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wanted to yield to the Senator from Florida.

Mr. RUSSELL. Mr. President, I am constrained to object and demand the regular order as in the morning hour. I have no objection to a Senator's speaking at great length, but Senators who have been on the floor for the past 30 minutes are entitled to consideration.

Mr. JAVITS. Mr. President, a parliamentary inquiry. Do I still have the floor?

The PRESIDING OFFICER. Has the Senator yielded the floor?

Mr. JAVITS. I have not.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. JAVITS. I see no reason why——

Mr. RUSSELL. Mr. President——

Mr. JAVITS. I do not yield. I see no reason why any Member of the Senate needs to be harried. For months, weeks, and days we have been doing very little. When a Member of the Senate takes the floor to speak, there is no reason why he should be harried. The pending bill is before the Senate for consideration. It will be considered. I am not inclined to be discursive. I feel that this situation is inimical to the conduct of the Senate. I have the floor. I have a right to make a unanimous-consent request. A Senator can object if he so desires, but I will not yield the floor at this time. I have a few other things to say.

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

Mr. JAVITS. I yield.

Mr. MANSFIELD. I think the Senator should be and will be a little more considerate in accord with his usual courtesy to his colleagues. He will recall that the morning hour had concluded, and he came to the leadership and said he would like to proceed for 5 minutes, and asked me if I would withdraw the quorum call. I did. I think we ought to realize that there is important legislation before us, that there is a responsibility on the part of all Senators, and that many Senators have been waiting for a half hour, at least. With his usual courtesy and consideration, the Senator, I am sure, is aware of that fact.

Mr. JAVITS. The Senator is absolutely correct in everything he has said. I am sure that, mettlesome as he is, he would have reacted as I did, and would have been compelled to do as I did, when there is pressure to "get off the floor." If the Senator had come to me and said to me, "Please close this up. We want to get ahead with the bill; you have had time on the floor," I would have withheld any further remarks; but any Senator with mettle and character would resent the fact that other Senators were pressing the situation. That is not the way I would like to see the business of the Senate conducted. I doubt if any other Senator would like to have it conducted in that way.

Mr. MANSFIELD. I do not disagree with the Senator, but I hope he understands the situation in the Senate, and that it is important that the Senate get on with the pending legislation as quickly as we can.

Mr. JAVITS. The Senator from Florida came to me and said he was occupied in another matter and asked if I would yield to him. I apologize to him and say that I cannot do so. Therefore, I yield the floor.

Mr. RUSSELL. Mr. President——

Mr. CANNON. Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from Georgia without losing my right to the floor.

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

Mr. RUSSELL. Mr. President, I can understand the feeling of the distinguished senior Senator from New York, but I do not think I may properly be charged with any rudeness in this matter or any lack of senatorial courtesy. I can understand that there are Senators who may feel that they are entitled to the floor by prescriptive rights and to hold it at great length, and who do so. The Senator from New York has never been restrained in speaking in the Senate. I am quite sure any examination of the RECORD will disclose that the distinguished Senator speaks as much as or more than any other Member of the Senate. There is one other Senator I can think of who may be able to "place" in that contest, but not to finish first. He would be left far behind by the distinguished Senator from New York.

I favor freedom of debate. I did not object to the Senator from New York speaking. I objected to his conducting what was in effect a morning hour at his pleasure. He would speak for a while. He would offer something for the RECORD. He would yield to some other Senator, very graciously, and then he would speak again and offer something else for the RECORD.

Under the normal morning hour, any Senator who speaks for 3 minutes, or who occupies the floor for 3 minutes, is supposed to withhold proceeding further and let some other Senator take the floor for 3 minutes, and await his turn again, if he wishes to put five or six different matters into the RECORD. I was wholly within my rights under the rules, and I have no apology to make to anyone, least of all to the distinguished Senator from New York, because I did not feel that he should have farmed out the floor and held up the Senate in that fashion.

PROPOSED TEST BAN TREATY

Mr. RUSSELL. Mr. President, the test ban treaty will be before the Senate within a few weeks. It will undoubtedly be before the appropriate committees of the Senate in the very near future. The subject is of transcendent importance to the people of this Nation; indeed, to the people of the earth.

The distinguished Senator from Washington [Mr. JACKSON], who has had vast experience in this particular area, is the author of a thought-stimulating article published in the New York Times magazine of Sunday, August 4, entitled "Seven Assumptions That Beset Us."

As Members of the Senate know, the Senator from Washington is chairman of the Senate Committee on Interior and Insular Affairs. He is also a valuable and experienced member of the Committee on Armed Services, its Preparedness Investigating Subcommittee; chairman of the Military Applications Subcommittee of the Joint Committee on Atomic Energy; and chairman of the Subcommittee on National Security Staffing and Operations of the Committee on Government Operations.

He has earned a reputation as an energetic and perceptive participant in national security affairs. His observations deserve careful study as the Senate prepares to consider ratification of the nuclear test ban treaty. I ask unanimous consent that this article be printed in the body of the RECORD.

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

[From New York (N.Y.) Times magazine, Aug. 4, 1963]

SEVEN ASSUMPTIONS THAT BESET US—A SENATOR TAKES A CLOSE LOOK AT THE TEST BAN TREATY AND OTHER ASPECTS OF EAST-WEST RELATIONS, AND WARNS US TO BEWARE OF BELIEVING THINGS THAT AREN'T NECESSARILY SO

(By HENRY M. JACKSON)

(NOTE.—In the coming debate over the atomic-test ban, Senator HENRY M. JACKSON, Democrat, of Washington, as a member of the Armed Services Committee and chairman of the Military Applications Subcommittee of the Joint Committee on Atomic Energy, will play a leading role. Here he outlines his philosophy on Russian relations with the West and discusses the treaty.)

WASHINGTON.—The longer I work at the problems of national security, the more I come to share Jefferson's view that a person "is less remote from the truth who believes nothing, than he who believes what is wrong." Or, as Josh Billings has said: "It isn't ignorance that causes so much trouble; it's what people know that isn't so."

It is harder to deal with error than with ignorance. Error, after all, is a child of our minds and we love it as our very own. Error is more often than not rooted in myths and wishful thinking. A nation may have great power and yet exercise it ineffectively, particularly if its people are careless of the facts and rest their judgments on misconceptions.

As Walter Lippmann once said: "A man may have the finest automobile, be the best driver, have perfect vision and a heart of gold. But if he tries to find his way around Paris with a map of Chicago and around Hanoi with a map of Oakland, Calif., he just will not arrive where he set out to go."

If today's assumptions are false and our estimates are too misleading, America will take the wrong turns and end up in the wrong place.

We confront complex issues, and understandably many of us hope for simple answers. So it is not surprising that convenient but false assumptions work their way into some people's thinking. It is useful to examine the credibility of certain assumptions about international affairs held by considerable numbers of people.

1. There is the widespread assumption that the Chinese-Soviet quarrel reduces the Communist threat to the West.

A Vietnamese might be permitted some doubts. Or a Nehru.

I believe that the truth may be exactly contrary to the reassuring words.

Khrushchev thinks our day has passed. Khrushchev and Mao are not quarreling about whether to bury us. They are quarreling about how. It may be that Mr. Mao plans a 12-foot grave and Mr. Khrushchev a 6-foot one. In any event, they both seem to have in mind a cemetery.

The Moscow-Peiping dispute is being played for very high stakes. The leadership of world communism is involved. So is the fate of men who see themselves as the locomotives of history. Khrushchev and Mao each desperately desires to show that his policy for liquidating the West is best. Each needs victories. The consequences for us may well be a period of rising tensions and dangers. At any rate this possibility weighs as much as the opposite one.

In these days, Khrushchev's tactics must be tailored to take into account his troubles with Mao. This does not mean his objective of world supremacy has changed.

Khrushchev just told the Chinese: "The struggle for peace, for peaceful coexistence, is organically bound up with the revolutionary struggle against imperialism. It weakens the front of imperialism, isolates its more aggressive circles from the masses of the people and helps in the struggle for national liberation."

Khrushchev has been a very adept and resourceful tactician. It is well to remember that where Stalin was obvious in his maneuvers, Khrushchev is devious. We have been exposed to his smiling face and his pounding shoe; we have seen him export doves of peace one month and nuclear missiles the next. The point is that whether Khrushchev is the jovial backslapper at a cocktail party or is launched on a harangue at the Berlin wall, he is the same dangerous man. He can turn it on and off again in short order. We can expect that Khrushchev will continue to twist and turn, thaw and freeze, agree and disagree—in pursuit of his ultimate aim, which he openly admits is to bury us.

And there is both a lesson of history and a warning for the future in Russia's sudden signing of a nonaggression pact with Hitler.

2. There is the widespread assumption that we can win our way with the Russians with a policy of inoffensiveness.

This is a fallacy held by many good and decent people who let their hearts prevail over their heads. We have all heard arguments that amount to nothing more than "if we trust the Communists, they will trust us." We are told that the United States should take unilateral initiatives to reduce our strength to set a "good example" and quiet Soviet suspicions.

It is not convincing to say that we won't know whether this policy will work until we try. There are some experiments that are best left undone.

Just consider India's experience. No state has tried harder than India to find security by a deliberate policy of inoffensiveness. India has had to learn the hard way, as have others, including ourselves, that expansionist states do not respect weakness. I am sure Mr. Nehru does not relish this on-the-job training program, but it may save others from a similar schooling.

As Reinhold Niebuhr has said: "If the democratic nations fail, their failure must be partly attributed to the faulty strategy of idealists who have too many illusions when they face realists who have too little conscience."

Almost all Americans are members of the peace movement in the sense that they want peace. The debate is over means. The debate needs to receive our most thoughtful, honest, tough-minded attention. But certainly, the weight of responsible opinions lies with preparedness combined with restraint—what Teddy Roosevelt meant when he said we should talk softly and carry a big stick.

The only way to bargain successfully with expansionist states is to maintain the strength to make bargaining attractive to them.

3. There is the widespread assumption that the arms race is leading straight to catastrophe.

A familiar line of this argument goes this way: Arms races have always led to war; the world is engaged in an arms race; therefore, we are heading for a nuclear holocaust.

This argument rings hollow. It was not an arms race that led to World War II. On the contrary, it was the failure of the Western democracies to prepare for war that led to its outbreak in 1939. It was Chamberlain's failure to recognize the danger of a demagogue like Hitler, bent on aggression, that led to Munich. This is the reason Winston Churchill has called the Second World War "the unnecessary war."

As I read history, international peace and security depend not on a balance of power but on a certain imbalance of power favorable to the defenders of peace—in which the strength of the peacekeeper is greater than that of the peaceupsetter.

An expansionist nation will never, of course, be satisfied with this state of affairs. And precisely for this reason, disarmament or arms control is a difficult objective to achieve. As I see it, a would-be aggressor will not settle for an arms control agreement that freezes him in a position of inferior power. On the other hand, an aggressor's objectives are served by an agreement which would permit him to acquire superiority by stealth.

As for the second premise: What arms race are people talking about? The United States is not engaged in an arms race. We could, if we wanted to, build more weapons and build them faster. But our goal is not an unlimited buildup. Our goal—and we should be perfectly clear about it and frank to acknowledge it—is to create and maintain, in cooperation with our allies, a relationship of forces favorable to peace. The real road to catastrophe would be to permit an unfavorable relationship of forces to arise.

I believe that this is an understandable position—and that our public statements about defense and about arms control or disarmament should be put in this perspective. Too often, however, high officials speak as though a nuclear test ban were mankind's last best hope, or as though the choice we face is between one more concession and catastrophe.

4. There is the widespread assumption that a test ban will halt the spread of nuclear weapons.

For those who have not mastered Anglo-Saxon, "spread" is a six-letter word meaning proliferation.

It is utterly unrealistic to take the position that a test ban agreement will stop the spread of nuclear weapons. We need to think clearly and straightforwardly about the test ban issue. Unfortunately, there has been some loose thinking, about this subject, which arouses such strong emotions.

The public lacks expert knowledge of the problems of inspection. "Decoupling" does not conjure up the same image for John Q. Public that it does for, say, Edward Teller. But the public does not lack commonsense. It knows that De Gaulle has refused to participate in the Geneva disarmament talks and that Mao has not been invited. It knows that the Chinese will be exploding a nuclear device at almost any time—this year or possibly early next year, and that Peking has been quick to say it will not be bound by the test ban. It knows that De Gaulle has said France will not sign the test ban agreement and will proceed with an independent nuclear program.

All of us, I am sure, regret that 10 years hence, as President Kennedy recently told us, there may be a sizable number of nuclear powers, each capable of touching off actions with irreparable consequences. I wish this were not the prospect. Efforts to limit the spread of nuclear weapons deserve our serious attention. But an agreement along the lines worked out in Moscow will not stop a nonsignatory country which desires to become a nuclear power and is able and determined to invest substantial resources to do so.

5. There is the widespread assumption that a test ban agreement will necessarily lead to growing East-West confidence and reduced tensions.

Obviously, we would hope a test ban agreement would be a first step toward decreasing world tension. But obviously, too, we cannot count on it, and unless we view the outlook in proper perspective we run the risk of a dangerous drop in public confidence and morale through the disappointment of exaggerated expectations.

For example, what would be the reaction to the knowledge that Communist China is conducting extensive nuclear tests—or to the strong suspicion that the Soviet Union might be cheating—or to a growing apprehension that the Soviets might abrogate the agreement without warning?

A test ban must not be merchandized like cosmetics—with claims that cannot be met. Government officials are not salesmen, but stewards.

The Senate will ratify a test ban agreement that proves, after careful study by the appropriate committees, to be in the national interest. But before reaching such a determination, the Senate, to fulfill its constitutional obligations, must look at any agreement with the greatest care, to make sure that the possible gains are not overshadowed by the risks that are inevitably run.

The prevention of fallout from tests is a clear benefit from any test ban agreement that works. But that benefit must be weighted against the risk of compromising our ability to prevent a nuclear war.

I deeply believe that in national security matters we should act according to a scale of national priorities that puts first things first and second things second. What is of first importance is to protect our military deterrent—to maintain a position where our power and our will to use it are understood both by our adversaries and our allies. Why has the Russian position changed—if it has? A good deal of credit must be given to the power we have maintained. If our deterrent ever ceases to be credible. the Communist bear will be on the loose.

6. There is the widespread assumption that our superiority in conventional forces was the decisive factor last October in the near-collision over Cuba.

This is, of course, wrong, as ought to be apparent.

I have strongly supported the strengthening of our conventional forces. This is one of the major accomplishments of this administration. Our forces are better balanced than they were and better prepared to meet the contingencies they may face.

But the decisive factor last October was will—the evidence that the United States was prepared to take whatever risks were necessary to obtain satisfaction of its demands. It may be that we did not demand enough—but that is another question. We got most of what we asked for. And the reason was that Khrushchev became convinced that our will was firm.

His reply to Communist Chinese criticism was as free of mumbo-jumbo as a statement could be. He said, "The paper tiger has nuclear teeth." And, as Bernard Brodie of the Rand Corp. recently observed, when Khrushchev found that we were not as tolerant as he had supposed, he rushed to get the missiles out, "apparently unimpeded with any worries about 'humiliation'." He was clearly less worried about his face than his future.

It is important to be very clear about all this, for if conventional superiority was the decisive factor in Cuba, what defends Berlin? The answer is that the security of Berlin also depends on our will. I, for one, would not wish to convince Mr. Khrushchev that our conventional superiority was decisive in Cuba. Or so to convince our European allies.

The Communists, by virtue of their geographic position, can deploy their forces to achieve conventional superiority at most points along their long boundaries. What deters them is fear that they might start something bigger than they are prepared to risk.

We need strong conventional forces; there is no argument about that. But it would be a tragic error to encourage the Communists to believe that they will meet only these forces so long as they restrict themselves to aggression with conventional means.

7. There is the widespread assumption that our national policies should be more flexible.

I do not know when flexibility became accepted as an unqualified virtue. It is a virtue in a tire or in a skyscraper—in moderation. Beyond a point it becomes softness in the former and wobbling in the latter. And who wants a wobbly skycraper, or a soft tire?

Flexibility is also a virtue in foreign policy—if it goes as far as resiliency but not so far as a wavering in will. The Bay of Pigs seems to have involved some wavering, the Cuban missile crisis of last fall some resiliency. I am in favor of resiliency—which my dictionary defines as "the capability of a strained body to recover its size and shape after deformation, especially when the strain is caused by compressive stresses." We are bound to suffer some compressive stresses here and there and we want the capability to bounce back, firm in purpose and resolve.

Referring to the Founding Fathers, Abraham Lincoln once said: "They were pillars of the temple of liberty; and now that they have crumbled away that temple must fall unless we, their descendants, supply their places with other pillars, hewn from the solid quarry of sober reason."

We must be vigilant, then, to make certain we are not misled by false assumptions. It is urgent, too, that we in government should be very careful what we ask the public to believe. Our national situation is too precarious to justify a nonchalant attitude toward the truth.

I believe the American people, if they have the facts, are able to distinguish nonsense at a hundred paces. They do not expect infallibility in their government officials; indeed, they wisely suspect anyone who claims it. They welcome candor, and they can take it.

ORDER OF BUSINESS

Mr. CANNON. Mr. President——

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, I ask unanimous consent that I may yield for 1 minute to the Senator from New York.

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

Mr. JAVITS. Mr. President, in response to the comments of the Senator from Georgia about my speaking, I do not know whether he watched the clock, but I spoke for exactly 20 minutes. When I yielded to other Senators, I yielded by unanimous consent. I did so to enable other Senators to make remarks. The Senate was not in the morning hour at the time, and I had been so advised. I did what any other Senator would do in endeavoring to fulfill his obligations in the Senate and at the same time trying to accommodate other Senators.

With respect to the question of the length of time that I speak, Mr. President, I say only that we can tote up the score at the end of this session, to determine how long I speak and how long other Members of the Senate speak. I would be most interested in that tally. I hope very much that the Senator from Georgia will bear this in mind when proposed civil rights legislation is before the Senate. We could then see how many lines in the RECORD are taken up by the remarks of the Senator from Georgia and by my remarks, in toto, on all subjects.

Mr. CANNON. Mr. President, I yield to the Senator from Georgia.

Mr. RUSSELL. Mr. President, I will undoubtedly speak somewhat at length when the proposed legislation to which the Senator from New York has adverted is on the floor of the Senate for debate. However, even with that recognized fact before me, and when totaling up or making a comparison of the amount of time that will have been occupied, as between myself and the Senator from New York, I believe with complete equanimity and a feeling of confidence that my physical capacity will not permit me to equal the time that the Senator from New York has taken in this session and will take during the remainder of this year. He also will speak at length on the so-called civil rights issue.

I did not object arbitrarily or capriciously when the Senator held the floor. He had said "finally," or "as a final item," and then started to take his seat. I thought the Chair had recognized the Senator from Nevada. Then the merry-go-round started all over again, not with the Senate's morning hour, but with the morning hour of the Senator from New York. I was not able to get into that morning hour.

Therefore, I resorted to a rule of the Senate, and I did so wholly within my rights. The Senator from New York can avail himself of the same rule, and undoubtedly he will do so in the future.

Mr. CANNON. Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from Louisiana [Mr. ELLENDER], without losing my right to the floor.

SUGAR PRICE FLUCTUATIONS

Mr. ELLENDER. Mr. President, last spring the attention of the country was aroused by some extraordinary movements in the price of sugar. In the space of a few weeks, the price of imported raw sugar delivered in New York doubled, rising from 6.6 cents a pound to 13.2 cents, the highest level in more than 40 years. The price of sugar on the world market underwent an even more spectacular climb.

This price spiral was fed by feverish speculation, and, like all speculative bubbles, this one burst. This particular bubble exploded on May 23, and for the next few days the price came down as rapidly as it had been going up. It has been going down ever since.

The price of raw sugar delivered in New York was 6.85 cents on July 31, which is only a quarter of a cent higher than the price that prevailed when the spiral began. The world price had fallen to 7.5 cents. The high prices this spring encouraged a great effort on the part of producing countries everywhere to take steps to increase their production, and the world supply outlook is good. There is no reason to think that the kind of price inflation which occurred this spring is going to happen again.

But the fact that the price of imported raw sugar has returned to its normal level raises an important question: Why are not the wholesale and retail prices also coming down?

The normal spread between the New York spot price of raw sugar and the price of refined is about 3.3 cents. Today it is more than 5 cents. It has been over 5 cents during most of the period since May 23 when the raw price broke.

The refiners contend that they were squeezed during the period of rising prices. They say that their selling prices lagged behind on the upward side of the spiral, and that therefore they have to lag also on the downward side, to make up for the earlier losses. I am sure there is something to this argument, but the lag on the downward side has now gone on for more than 2 months—which is much longer than the period of lag during the price rise.

The same questions can be raised about the margin that still remains between the sugar refiners' price and the retail price, which is much wider than normal.

The refiners of imported raw sugar at least have some argument for holding their prices up, because the cost of their raw sugar did rise. But what defense do the beet sugar processors have? Their costs did not go up at all. Their sugar was all refined, in inventory, when the world price of sugar began to climb. They simply took advantage of the situation, and raised their prices to get whatever they could. The price of refined beet sugar rose from a little over 9 cents to a peak of 13.25 cents generally, and

in one territory to 15.25 cents for a few days. Perhaps the directors of the beet-processing companies were under great pressure from their stockholders and growers to charge what the traffic would bear. But it is hard to see how, at this date, the beet sugar processors can justify a price that is still more than a penny a pound above what was the normal price of beet sugar before the price spiral began.

It may be asked whether, by raising such questions, I propose to interfere with the free-enterprise system, under which price is properly determined by the relationships between supply and demand. The answer is that sugar is just about the most fully controlled commodity in the entire marketplace. The Sugar Act apportions the entire U.S. market among various groups of suppliers, and the Secretary of Agriculture is directed to establish the total of these quotas at the point where supply and demand will be kept in balance at a price objective determined by a formula written into the act. The formula works out at a raw sugar price, delivered in New York, of 6.6 cents a pound. This formula price may be too low, and I believe it is, but this is what the formula provides. In short, the Sugar Act, through the assignment of quotas, guarantees every producer his share of the market. It stabilizes prices for the refiners and processors during periods when excess supplies are pushing world prices down. It even directs the Secretary of Agriculture to apportion the sugar dollar among the processor, the growers, and the workers. Thus it seeks to assure each segment of the industry a fair return. Under these circumstances, it seems to me that the law creates a corresponding obligation on the part of the industry not to profiteer when the opportunity arises.

As of this date, in view of present price relationships, it seems clear that the burden of proof rests on the industry to show that it is not profiteering. The evidence suggests very strongly, to me at least, that some profiteering is taking place and will continue to take place until such time as the price of refined sugar is reduced to fair and reasonable levels.

The cane growers and processors in Louisiana have not shared in the benefits of that price spiral. That statement applies also to Hawaii, the Virgin Islands, and Puerto Rico. They have had no part in any profiteering. Their sugar, which was harvested last fall, was sold during the winter. Their inventories were gone—their cupboards were bare—when prices began to rise. The next crop will be harvested in the last quarter of this year, and there is no likelihood that prices will be any stronger than they are now.

Indeed, the indications are in the opposite direction, and this brings me to the second point that I want to make in these remarks today.

I believe there is a danger that the price of sugar will soon fall well below the price target established in the Sugar Act unless the Department of Agriculture carries out some firm measures to prevent that from happening.

Let me explain why this is the case. Originally, the Secretary of Agriculture established a national consumption estimate for this calendar year of 9.8 million tons. That was what he predicted the people of this country would actually consume. But at the time of the price spiral there was a great deal of excessive buying by industrial users and distributors of sugar, amounting to about 600,000 tons in all. This excessive buying drew down stocks in the pipelines and created the appearance of actual shortage and some fears of real shortage. These fears in turn tended to stimulate the buying panic. In order to keep the pipelines full and cover the hoarding that was going on, the Secretary was forced to raise the consumption estimate from 9.8 million tons to 10.4 million tons. This made possible additional imports under the global quota, and these were contracted for.

When it became clear that no shortage existed, or was going to exist, the panic buying suddenly stopped. Instead of accumulating inventories, users and distributors have for the last couple of months been drawing them down. They are about down to normal now. But the import commitments still exist. The domestic cane and beet production is estimated to be 750,000 tons above that of last year. The result is that the United States will in all probability wind up in the late months of this year with several hundred thousands of tons of sugar more than we need. This could have a severely depressing effect on prices. That is what the cane growers and processors in Louisiana are worried about, and so are the beet growers.

The Acting Secretary of Agriculture, Mr. Charles Murphy, has assured me he is very much aware of his responsibility for seeing to it that the price of sugar does not fall below the price objective set in the Sugar Act. He has advised me that the Department will deal with the situation if it arises. I want to say today that the situation may be on them much sooner than they realize, and that we can afford no delay in getting ready. The harvesting season in my State begins in early October and the price of sugar for the period beginning then determines the income from the crop. From the standpoint of Louisiana, it would be a severe blow if the price of sugar were below the Sugar Act objective in October.

There are a number of things the Department can do.

First. If some of the holders of quotas are unable to fill them this year, the Department can decline to reallocate those quotas to other producers. I understand that there have been defaults already, affecting rather small amounts, and that perhaps some larger amounts may be defaulted later. To whatever extent this occurs, sugar supplies will be reduced if these deficits are not assigned to any other country.

Second. The Department could entertain requests from foreign countries to be relieved of quota commitments if they need more sugar for their own domestic consumers.

Third. The Department could reduce the national consumption estimate and thus reduce all quotas. This carries administrative complications, of course, since many countries have already shipped or contracted to ship their entire quotas and it would be difficult to apportion the reductions.

Fourth. The Department could announce next year's consumption estimate early and set the estimate low enough that it would be clear to the sugar trade that this year's surpluses would be absorbed. Imports could then go ahead as planned, and refiners and processors could then plan their year-end carryovers accordingly.

There may well be other measures that I have not listed here.

Perhaps some combination of these measures would be best. But I believe the Department of Agriculture should be put on notice that it is their responsibility to be concerned about the producers of sugar, just as they have been properly concerned about the consumer. There is no time to lose in preparing their plans, if all interests are to be protected.

Mr. RIBICOFF. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. Mr. President, I ask unanimous consent that I be permitted to yield to the Senator from Connecticut without losing my right to the floor.

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

Mr. RIBICOFF. Mr. President, to the distinguished Senator from Nevada, I express my appreciation for his courtesy in yielding this time to me.

U.S. EDUCATION COMMISSIONER FAVORS PRIVATE EDUCATION AID

Mr. RIBICOFF. Mr. President, some weeks ago, I discussed the religious controversy in the field of education, and expressed the view that this controversy must be resolved so that the effort to improve the educational opportunities of every boy and girl in this country may go forward. I offered some suggestions that might point the way to a resolution of this great issue.

The response from across the Nation has been most encouraging. Editorial comment from a variety of newspapers, representing a wide range of opinion, has generally been very favorable. I was very much pleased that my proposals received encouraging comment, for example, both from the St. Louis Post-Dispatch and from the Catholic News, the official newspaper of the New York Archdiocese.

Individual comments too, have generally been favorable. Among the most interesting were those from noted Protestant theologian, Reinhold Niebuhr, who wrote:

> I am in substantial agreement with your approach to the problem * * *. I welcome your effort in this cause.

And from Francis Cardinal Spellman, who wrote:

> I thought it was a wonderful speech * * *. I know it will be helpful in clarifying the problem and the issues involved.

Mr. President, the response in the press and in the mail has also indicated several serious misunderstandings about

this religious controversy in education and about the way it might be resolved. It is important that the record be set straight on these points.

First. The most serious misunderstanding throughout the Nation concerns the position of the administration. So long as this misunderstanding persists, the task of Congress in dealing with this issue is made that much more difficult. I firmly believe Congress has its own responsibility to face this issue and resolve it in a constructive and creative way. Its views may not accord with those of the administration. Some of the proposals I have advanced have been consistently opposed by the presnt administration. But we have a responsibility to legislate, whether we accept or reject the administration's position. Inevitably, however, the administration's position forms part of the context in which we shall discharge our responsibilities. For this reason, any misunderstanding about this position clouds our own efforts.

I think it would be helpful to detail the public record of the administration's position, so that any misunderstanding will be removed.

It is widely believed that the administration opposes, on constitutional grounds, all aid to church-related schools. This is simply not true.

The administration has recognized that using public funds for private education does raise questions of both constitutionality and public policy; but it has never opposed all forms of such aid, either on constitutional grounds or on their merits. In fact, it has expressed precisely the opposite view.

Two years ago, in a carefully prepared legal memorandum submitted to Congress, the administration set forth its views on the constitutional questions involved. At no point does the memorandum say that all forms of aid to church-related schools are unconstitutional. The memorandum specifically outlines some forms of aid which it says are constitutional. This memorandum, dated March 28, 1961, was prepared by attorneys of the Department of Health, Education, and Welfare, in consultation with attorneys of the Department of Justice.

The administration's view of the merits of aiding private education was recently emphasized by the Commissioner of Education, Francis Keppel. Speaking on the "Meet the Press" program on June 9, 1963, Dr. Keppel acknowledged that "there are constitutional limitations on general aid to elementary and secondary schools," but he then said:

> If there is a way of handling the matter within constitutional limitations which can be devised * * * of course, I would be in favor.

Following this broadcast, I wrote Dr. Keppel a letter, to make sure I correctly understood his position. I asked whether it was his view "that it would be desirable, in addition to aiding public education, to extend Federal financial assistance to private education at all levels, using such means as are generally agreed to be constitutional." He replied, "It is my view most certainly."

I ask unanimous consent to have printed at this point in the RECORD the pertinent portion of the "Meet the Press" transcript and the exchange of letters between Dr. Keppel and myself.

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

EXCERPT FROM "MEET THE PRESS," JUNE 9, 1963

Mr. HECHINGER. You indicated that a solution must be found on the public elementary and secondary school bill. Does that imply that the solution might have to be a bill of different form, including nonpublic school aid?

Mr. KEPPEL. The position of the administration as you know, and of other administrations, is that in the elementary and secondary area there are constitutional limitations on general aid—to the elementary and secondary schools. That constitutional limitation, according to the advice we have, remains. I am not sure that I understand your question beyond that point.

Mr. HECHINGER. Would you in other words favor a bill which would be a trade in order to make the public-school-only measure acceptable?

Mr. KEPPEL. If there is a way of handling the matter within constitutional limitations which can be devised—and I think it is going to take the wit of all of us, all the people, executive, legislative, and so forth—of course, I would be in favor. We need aid.

Mr. HECHINGER. But do you suggest that there may be a possibility of providing such aid, such compromise aid which would require efforts to get around the constitutional——

Mr. KEPPEL. No; I have no desire to get around the Constitution.

TEXT OF A LETTER TO FRANCIS KEPPEL, COMMISSIONER OF EDUCATION, JUNE 12, 1963

DEAR MR. COMMISSIONER: I noted with interest your remarks last Sunday on the "Meet the Press" program—especially your comments concerning Federal assistance for private education.

In the first place, I was glad you were careful to point out that the administration's position on aid to church-related schools is that the Constitution prohibits general or across-the-board assistance, not that all forms of assistance are prohibited.

Second, I was glad to hear you speak of the need for a solution to the religious controversy in education, emphasizing, of course, that the commands of the Constitution will be observed. This is the approach which I followed in my recent speech in the Senate on this subject. As you are no doubt aware, each of the proposals that I mention for assisting private education were considered constitutional by the legal memorandum submitted 2 years ago by the Department of Health, Education, and Welfare.

I would be interested in knowing if it is your view, as I understood from this broadcast, that it would be desirable, in addition to aiding public education, to extend Federal financial assistance to private education at all levels, using such means as are generally agreed to be constitutional.

Sincerely,

ABRAHAM RIBICOFF.

TEXT OF A LETTER FROM FRANCIS KEPPEL, COMMISSIONER OF EDUCATION, JULY 3, 1963

DEAR SENATOR RIBICOFF: Thank you for your letter about my remarks on "Meet the Press." And I hope that you will forgive my delay in replying. The last few weeks have involved being away from my desk for more than I like.

You wrote, "I would be interested in knowing if it is your view, as I understood from this broadcast, that it would be desirable, in addition to aiding public education, to extend Federal financial assistance to private are generally agreed to be constitutional." education at all levels, using such means as It is my view most certainly. I have long emphasized the important role played by private and parochial schools in the educational life of the Nation. There is no doubt, moreover, that all schools—private as well as public—urgently need additional sources of revenue if they are to achieve the levels of quality that every parent and the American people desire.

This Office continues to explore avenues of support for the improvement of educational opportunities for all of our children. Within the bounds of both constitutionality and sound public and educational policy, we are working for the enactment of effective and equitable educational legislation for all of our schools and colleges, parents and students.

Sincerely yours,

FRANCIS KEPPEL.

Mr. RIBICOFF. Mr. President, I think the misunderstanding about the administration's position has developed from a widespread failure to keep in mind exactly what President Kennedy said about this subject when he was questioned at his news conference shortly after he took office.

The President was first questioned on March 1, 1961, about aiding private education. It is true that his answers stated in general terms broad opposition, on constitutional grounds, to aid for church-related schools. But when the issue was again raised at his press conference the following week, the President elaborated his views in some detail; and it is most unfortunate that the press and the public have lost sight of the exact points he made.

The President expressed the view that it is unconstitutional to give church-related schools grants or loans on an across-the-board basis. But his opposition to such unrestricted forms of aid should not be viewed as opposition to all forms of aid. In fact, he specifically opened the door to loans or grants which are not given on an across-the-board basis.

Here are the President's own words from his press conference on March 8, 1961:

> I think it's very clear about what my view is of grants and loans across the board to nonpublic schools * * *. My judgment has been that across-the-board loans are also unconstitutional.

But the President also said:

> Loans and even grants to secondary education under some circumstances might be held to be constitutional.

In stating his view of the form of aid he believed was unconstitutional, the President used the qualifying phrase "across the board" seven times.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the pertinent questions and answers from these press conferences as reported in the New York Times of March 2 and 9, 1961.

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

QUESTIONS AND ANSWERS CONCERNING AID TO PRIVATE EDUCATION FROM PRESIDENT KENNEDY'S PRESS CONFERENCE OF MARCH 1, 1961, AS REPORTED IN THE NEW YORK TIMES OF MARCH 2, 1961

Question. Mr. President, sir, in view of the criticism that has occurred, could you elaborate on why you have not recommended Federal aid to public—to private and parochial elementary and secondary schools?

Answer. Well, the Constitution clearly prohibits aid to the school, to parochial schools. I don't think there's any doubt of that.

The Everson case, which is probably the most celebrated case, provided only by a 5-to-4 decision was it possible for a local community to provide bus rides for non-public-school children.

But all through the majority and minority statements on that particular question there was a very clear prohibition against aid to the school direct. The Supreme Court made its decision in the Everson case by determining that the aid was to the child, not to the school.

Aid to the school is—there isn't any room for debate on that subject. It is prohibited by the Constitution, and the Supreme Court has made that very clear. And therefore, there would be no possibility of our recommending it.

Question. But you are free to make the recommendations you have made which will affect private and parochial colleges and universities?

Answer. Well, the aid that we have recommended to colleges is in a different form. We are aiding the student in the same way the GI bill of rights added the student. The scholarships are given to that, to the students who have particular talents and they can go to the college they want. In that case, it's aid to the student, not to the school or college, and, therefore, not to a particular religious group. That is the distinction between them, except in the case of aid to medical schools, and that has been done for a number of years and because that's a particular kind of technical assistance. A constitutional question has not arisen on that matter.

QUESTIONS AND ANSWERS CONCERNING AID TO PRIVATE EDUCATION FROM PRESIDENT KENNEDY'S PRESS CONFERENCE OF MARCH 8, 1961, AS REPORTED IN THE NEW YORK TIMES OF MARCH 9, 1961

Question. Mr. President, would you help to clarify the aid-to-private-schools issue? The National Defense Education Act, passed in 1958, provides loans for private and elementary secondary schools for equipment. And existing provisions, as well as your recommendations, allow for construction loans for private colleges. I wonder if you'd give us your view on proposals to add to your school bill provisions for loans, as differentiated from grants for private and parochial elementary and secondary schools?

Answer. All right. You've mentioned three rather different programs, which involve different purposes and different constitutional problems.

The first program was the National Defense Education Act, where loans were provided for nonpublic schools for specific purposes—languages, I believe, and also for science and engineering. I think $20 million was provided of which, interestingly enough, only about $1,300,000 has been used for loans. That was the first.

Now the second type of program you discuss—in my—I supported that program. In my opinion it was—there is no evidence as yet that suggests a serious constitutional problem because it's tied very closely to national defense.

The second program we're talking about—is loans to all colleges. And in my opinion—and also, of course, scholarship assistance to the students. That is in a different position—at least to the best of my judgment—from secondary education. Secondary education is compulsory. It is provided for every student, every citizen. Every citizen must attend school.

We are providing a program, which we sent to the Congress, of grants for public schools. And therefore, in my opinion, that is the program which I hope will be passed.

Now the problem of loans to secondary education does institute serious constitutional problems. I don't think that anyone can read the Everson case without recognizing that the position which the court took—minority and majority—in regard to the use of tax funds for nonpublic schools raises a serious constitutional question.

I've expressed my view on them. I think the Congress should consider carefully what its view is on them; and what kind of program it wants to recommend in this area. The Congress, as I say, has recommended grants to private colleges in the past—I used, I think, a week or two ago I gave that as an example. It has use in the Defense Education Act, which used loans for specific purposes.

Whether across-the-board loans are constitutional is a question which I have—which I think—which, in my opinion, raises a serious constitutional question.

Now I'm hopeful that the Congress will enact grants. If the Congress, and Congressmen, wish to address themselves to the problem of loans, which is a separate matter—we're not talking about, in this bill, loans to secondary education—then, I am hopeful it would be considered as a separate matter—that the Congress will consider the constitutional problems. And then consider what action they would want to take.

And we will be glad to cooperate in every way. But I am hopeful that while that consideration is being given, that we will move ahead with the grant program.

Question. Are you suggesting, Mr. President, that Congress, if it wants to provide for long-term, low-interest loans for private and parochial schools, ought to have a separate bill?

Answer. I definitely believe that we should not tie the two together. I think that there are sufficient constitutional questions which the Members of Congress will have to consider that I believe in view of the fact that this act is directly in its title and in its purpose directed to giving grants to public schools, that we should proceed with that bill.

Now, any other matter, I think, seems to me should be taken up as a separate issue if we wanted to then discuss loans. I've given my view of the constitutional problems involved in an across-the-board loan.

As the questioner indicated there had been some kinds of loans to nonpublic schools which had been supported by the Congress and signed by the President and about which no constitutional problem has yet been raised, and the National Defense Education Act is the best example. But across-the-board loans, as this group knows, this matter was not brought up in the last—President Eisenhower sent several messages to the Congress dealing with Federal aid to education.

I believe there were one or two times when it was voted upon in the House. I do not recall that there was a great effort made at that time to provide across-the-board loans in an aid-to-education bill. The only time in my knowledge that it was brought up was by the end of the last session in August by Senator [WAYNE] MORSE [Democrat, of Oregon], and then just in the Senate. But it was not made a matter of great interest at that time and I am concerned that it should not be made an issue now in such a way that we end up the year again with no aid to the secondary schools.

Question. Mr. President, you said last week, as I recall it, that there was no room for debate on this matter.

Answer. That's right. There's no room for debate about grants. There's obviously room for debate about loans, because it's been debated. My view, however, is that the matter of loans is, to the best of my knowledge and judgment, though this has not been tested by the courts, of course, in the sense that grants have, but by my reading of the constitutional judgment in the Everson case, my judgment has been that across-the-board loans are also unconstitutional.

Question. Does that suggest you would veto a bill that provided for across-the-board loans, Mr. President?

Answer. I think I've made my view very clear. I think it's always a mistake before we've even had legislation to talk about what I'm going to do. But I think it's very clear about what my view is of grants and loans across the board to nonpublic schools.

Now colleges are in a different category. Specific programs of grants even to colleges which are not public have been supported by the Congress and signed by the President. Loans and even grants to secondary education under some circumstances might be held to be constitutional. But across the board to all nonpublic schools, in my opinion, does raise a serious constitutional question which after reading the cases and giving it a good deal of thought, in my opinion—at least to my judgment—would be unconstitutional.

Now, the President has an obligation—and the Congress—to consider this matter very carefully. I am extremely sympathetic to those families who are paying their taxes for public education and also sustaining their children in nonpublic schools. They carry a heavy burden. But I have made my position very clear for many months and I have to make my position clear now as long as I'm here on what I believe to be the constitutional problems. And I also point out that this matter was not made an issue in recent years until this time—except in the case of the very amendment offered at the end of the last session by Senator MORSE which was just offered in the Senate and was not offered in the House of Representatives to the best of my knowledge.

Question. Mr. President, back on the subject of education. There has been rising speculation that the openly developing fights over the issues of segregation and religion as they are involved in the legislation may well stop them before they start. How do you assess the possible damage of those issues as pertaining to your legislation on building schools and loans to teachers' salaries, and do you intend to carry the issue more strongly to the public directly?

Answer. Well, this matter, of course, these two and, of course, other groups who are opposed to any action in this area have all contributed to the fact that in spite that this matter has been debated for a number of years—passed the Senate at least two or three times—that we've never gotten legislation, so that, obviously, it's going to be a difficult matter to secure the passage of legislation this year.

But I do not think that there is anything more important than to have good schools, well-trained, competent teachers. The—when the Massachusetts Bay Colony was established one of the first acts that were taken was the establishment of a public school. The Northwest Ordinance, the land-grant colleges all indicate the long traditional interest which our Government and people have had in strengthening our education.

We are as good in a long-range sense as our schools are, and, therefore, I am extremely interested in seeing the country this year place additional emphasis upon education—additional support to education.

In one area alone, as I mentioned some time ago, those people who were first thrown out of work are at the bottom of the educational ladder. The papers are filled with ads requiring scientists, technicians, engineers in the west coast and all across the country. People who can't find jobs are people who were not well educated at the beginning.

I think everyone should have a maximum chance to develop his talents. I do not believe that that can be done effectively without passage of this bill this year.

I'm therefore hopeful however strong the feeling may run—and I'm very conscious of them—on all these other matters, that the program of scholarships for college students, of loans to colleges—because we're going to have to double the number of children, we're going to have double the number of children in 1970 that we do today applying for admissions to our colleges, and grants for public schools—I am hopeful that that will be passed this year.

Mr. RIBICOFF. Mr. President, the distinction between across-the-board aid and all other forms of aid is a crucial one that has largely been ignored. Many share the President's view that the Constitution does prohibit aiding a church-related school with no restriction whatever on the use of such funds. Aid in such form would support the plainly religious aspects of the school. But aid that is limited to certain specified uses or aid that is extended generally, but with certain specified exceptions, stands on an entirely different footing.

For example, it is one thing to give $50,000 to St. Mary's High School and to permit those funds to be used for any purposes, which might include the building of a chapel; it is quite a different thing to give the same school the same $50,000 for the specific purpose of building a chemistry laboratory. The former is across-the-board aid; the latter is not.

Some will argue that the difference is of little consequence, since aid for a specific purpose, such as a chemistry laboratory, relieves the school of the financial burden for that item, and thus frees other school funds for other items, such as chapels. But that would be true only if the school intended to spend $50,000 for a chemistry laboratory, regardless of whether it received public assistance. It may well be that the public funds enable the school to construct a chemistry laboratory which otherwise it would do without. In that case there is no freeing of school funds for other purposes. Furthermore, not all publicly financed benefits that save a church-related school money which it can use for religious purposes obviously are prohibited by the Constitution. For example, municipal police and fire protection save the school money which it can use for other purposes. The community could require the school to assume these responsibilities and pay their costs, but no one seriously believes the Constitution requires this.

This distinction between across-the-board aid and restricted aid has been recognized by Congress.

Congress has never authorized, on an across-the-board basis, funds for church-related education. But under the National Defense Education Act, Congress has extended financial support to church-related schools for the specific purpose of acquiring equipment to teach mathematics, science, and foreign languages; and the pending bill to provide funds for construction of college facilities—both the bill recommended by the administration and the version approved by the House Committee on Education and Labor—specifically excepts facilities for sectarian instruction, religious worship, or divinity schools.

Thus, there are ways of extending assistance to private education without doing it on across-the-board basis.

I think the point is clear. The administration does not stand opposed to all forms of aid to church-related schools. It believes some forms of aid—especially across-the-board aid—are unconstitutional. But as the letter from the Commissioner of Education makes clear, it does support aid to private education that observes constitutional limitations. And, as the President has said, Congress has its own responsibility, apart from Executive recommendations, to consider which forms of aid to private education are both constitutional and desirable.

Second. The proposals I advanced were made in an effort to outline a means of resolving the controversy within the constitutional limitations. But some have misunderstood this, believing my proposals either ignored the Constitution or, as some have said, tried to "get around" the Constitution.

Let me make it very clear that I have no intention of supporting any proposal that exceeds constitutional limitations. The fact is that the administration's careful statement of its constitutional position in the memorandum submitted to Congress in 1961 does not view as unconstitutional any of the proposals I have suggested.

Third. Some have also misunderstood my proposals as if they stood in isolation, apart from a broad program of aid to education generally. For example, one objection to the proposal for income tax deductions for college tuition has been that this does not help those in the lowest salary levels who pay no taxes. The answer is that children of these parents are eligible for scholarship aid, and I firmly support an extensive program of scholarships for college students.

As another example, my proposal for Federal financing of the shared time approach is a supplement to a broad program of aiding public elementary and secondary schools.

In short, it is my view that the educational opportunities of every student must be broadened. This can be done by aiding public education and, within constitutional limitations, aiding private education as well.

Fourth. Finally, there is widespread misunderstanding as to the present extent of Federal aid to both public and private education. The debate goes on as if the issue were: Should there be Federal aid to education? The fact is there is Federal aid to education both public and private. Federal dollars in large amounts now aid the education of students in colleges and schools, public and private, sectarian and nonsectarian.

It is of the utmost importance that there be widespread public debate on the entire subject of financing education. In the long run our success in education will measure our success as a Nation. But the debate must be based on facts, free of misunderstandings. The response I have received indicates that there is a great readiness by thoughtful people throughout the country to participate in such a debate and to work constructively for reasonable solutions. The next generation of Americans has reason to be encouraged.

I ask unanimous consent to have printed at this point in the RECORD the editorials previously referred to.

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

[From the Chicago's American, May 23, 1963]

RIBICOFF'S SCHOOL AID PLAN

Senator ABRAHAM A. RIBICOFF, Democrat, of Connecticut, may have opened a can of worms, to borrow a phrase from his Senate speech, by proposing a plan for solving the religious controversy over Federal aid to education. Just the same, the proposals offer a reasonable basis for discussing this particularly touchy problem, and we hope Congress accepts them as such.

RIBICOFF's main suggestion is to allow income tax deductions up to $1,500 for college expenses at both public and private schools, and up to $100 for tuition expenses at private elementary secondary schools, including church-related ones. This is not new; proposals like it have run up against objections from the Treasury Department and the Office of Education, among other agencies. Yet the idea deserves more careful study than it has so far received.

The constitutional question here seems already answered. As RIBICOFF pointed out, income tax deductions are allowed now for charitable donations to churches, and the donations help support church-related schools. In that indirect sense, Federal tax help for church schools is already a fact. RIBICOFF's proposal in effect would apply the indirect principle on a wider scale.

RIBICOFF also called for Federal financing of the shared-time system, under which private school students may use some public school facilities—vocational shops and gyms, for example—on a part-time basis and for teaching of subjects unrelated to religion. Federal aid could also be broadened, he said, to cover construction of private school classrooms for such religiously neutral subjects as mathematics, science, and language. At present, such aid is limited to furnishing teaching equipment.

Federal funds are now used, RIBICOFF observed to provide summer institutes for teachers of math, science, and language, without regard for their public or private school affiliations. He proposed setting up teacher training programs and providing scholarships along the same lines.

These suggestions are all open to argument, of course. But they start out from bases that are already agreed on, and offer a promising middle ground area for fruitful discussion.

[From the St. Louis Post-Dispatch, May 24, 1963]

BUT NO WHITE HOUSE PLAN

Senator RIBICOFF, of Connecticut, in a laudable effort to break the frustrating stalemate over Federal aid to education, has offered a useful basis for discussion with a six-point program designed to "end the religious controversy." We do not endorse every one of his points, but we certainly agree that new approaches are needed, based on principle and not mere expediency, that will permit the voices of thoughtful moderation to be raised.

Allowance of income tax deductions for college expenses and private school tuition has much to be said for it as a substitute for tax support of religious schools, which would be both unconstitutional and undesirable. The shared time proposal for making certain public school facilities available to private school pupils, such as vocational shops, gyms, and auditoriums, might also be worked out without violating principle.

Federal aid for private teaching of such subjects as mathematics, science, and languages is much more questionable, but worth discussing. Providing auxiliary services like bus transportation is already being done in some States, though in others including Missouri it would run counter to State constitutional barriers. With Senator RIBICOFF, we are entirely satisfied that Federal aid to secular aspects of higher education in both private and public institutions is acceptable and necessary.

But will anybody sit down quietly to discuss such a moderate program of compromise? We have on the one hand Protestant extremists who fight aid to higher education if it includes private colleges, and on the other hand Roman Catholic extremists who fight aid to elementary education unless it includes parochial schools. Both attitudes must be modified if a reasonable middle way is to be found.

The most curious aspect of the matter is the vacuum of leadership in the White House. President Kennedy is an ardent sponsor of Federal aid. He can eloquently expound our society's need for a sustained national effort to raise the level of education, and he has firmly concluded, on sound constitutional grounds, that at the elementary and secondary levels this effort must be concentrated in the public schools. Why is it that Senator RIBICOFF, rather than President Kennedy, is stuck with the difficult task of trying to reconcile the clashing extremes?

The Senator's plan, we are told, was not stimulated by the White House, though the administration would be interested in the public reaction to it. This is a disappointingly passive attitude for an administration committed to a strong program of Federal aid to take. The President himself ought to be mobilizing the full resources of his great office behind a supreme effort to break the deadlock.

Or is President Kennedy satisfied to advocate without accomplishing?

[From the Providence (R.I.) Journal, May 29, 1963]

A PROPOSAL FOR TAX CREDIT FOR COLLEGE EXPENSES

Of the several proposals for Federal aid to education offered the other day by Senator RIBICOFF, the most likely to impress his colleagues in the Senate deals with a Federal tax credit of up to $1,500 for college expenses in public or private institutions.

The Senator had tried to promote the same idea as a Cabinet member. Two years ago, Senator KEATING introduced a bill calling for tax reductions on college tuition. More recently Senator GOLDWATER, testifying before a Senate subcommittee examining the administration's omnibus education bill, proposed some Federal tax relief for parents paying college expenses. Appearing before the same subcommittee, presidents of 20 small colleges also have urged similar income tax credit.

As a provision possibly in the President's $1 billion omnibus bill, the tax relief plan could, as Senator RIBICOFF hopes, form a new basis for discussion of the aid to education bill. It is largely true that public debate, in the Senator's words, has been dominated "by the proponents of the extreme: those who want the Federal Government to finance private education exactly as it finances public education and those who want no financial assistance to private education at all."

A Federal tax credit for college expenses, in our view, would tend to depolarize the discussion, relieve the arguments of some of their religious controversy, and promote more reasonableness than tension.

Such a provision in an education bill would benefit the country, not as clearly as many people would like, but clearly enough so that Senator RIBICOFF feels this particular proposal is constitutional. Parents whose youngsters are not destined for college might wonder why they must help pay higher education expenses of the family next door by means of taxes to compensate for the college expense deduction. While such a tax course is not likely to enjoy broad popular appeal it does have merit and certainly deserves careful analysis as an alternative to flat grants and loans to colleges and universities, a method that seems overly susceptible to the bitterness about the religious controversy in education.

Senator RIBICOFF's other proposals involving Federal financing of part-time use by private school students of public schools; aid to construction of mathematics, science and language classrooms in private schools; giving bus and health services in private schools; Federal aid in teacher training and scholarships; and Federal support to public and private higher education resemble the administration's comprehensive yet selective approach to aiding education.

But if the sum of the Senator's proposals is controversial and read as promoting the Federal Government's role in education, this is small reason to pass over a valuable provision that should become part of the omnibus bill. An untold number of parents who either have children in college or plan on sending them trusts that the tax deduction for higher education expenses receives scrupulous review by Congress because, most importantly, it is not just one sector of society that benefits.

[From the Washington (D.C.) Evening Star, May 25, 1963]

TO BREAK SCHOOL AID LOGJAM

(By Gould Lincoln)

In an effort to break a logjam in Congress and out over Federal aid to education in this country, Senator ABRAHAM A. RIBICOFF, of Connecticut, has introduced proposed amendments to the income tax laws which warrant serious consideration. These proposals are for tax deductions for parents sending their children to schools—public and private—and for public financing of "shared time." Shared time simply means that children who attend private schools may be able to use some of the facilities of public schools on a part-time basis. For example, a child who wishes vocational training as well as academic.

The Connecticut Senator served for the better part of 2 years as Secretary of the Department of Health, Education, and Welfare, in the forefront of the effort to obtain Federal aid for education, which for years has been an issue in this country. In offering his proposals—in the nature of a compromise for the administration's bill which provides aid only for public schools and its opponents who wish similar aid to be provided for private schools, including parochial schools—Senator RIBICOFF said that no one should discount the intensity of the conflict which has arisen particularly over the so-called religious issue.

"I know, too," he said "the frustrations that await those who venture into this area. But I firmly believe that the effort must be made to resolve this controversy. As long as it continues * * * the possibility of progress all but vanishes." On one side of the controversy are those who wish the Government to finance private and parochial schools in the same manner as it proposes to finance public schools. On the other, those who favor aid only to public schools. There is a third group which is opposed to Federal aid to either public or private schools.

AVERTS KEY ARGUMENT

Senator RIBICOFF believes firmly that his proposal of tax deductions avoids the proposition that the Federal Government, under the Constitution, may not finance schools, private or parochial, which have church affiliations or any religious instruction. He points out that tax deductions for contributions to charities and churches are already provided by Federal law. And also to the fact that the administration recently has renewed its recommendations that income tax credits and deductions be used to help finance the costs of political campaigns. "Surely," he told the Senate, "the cause of education deserves similar support."

In brief, Senator RIBICOFF is proposing a tax deduction up to $1,500 for parents sending a child to college, and a tax deduction up to $100 for parents sending a child to school—public, private or parochial. It is his information that parents of children attending parochial schools pay on the average $50 tuition for the lower grades and $100 for the high school grades. The charges for many private schools are far higher. These deductions will not, of course, pay the tuition charges in any case, but they will help. Also, if his plan is adopted, it may lead to a resolution of the strife which has arisen over aid to private and parochial schools. "These tax deductions," he said, "may well make it possible to pass other direct assistance for public legislation that does provide schools."

DISCOUNTS OPPOSITION

Senator RIBICOFF is well aware that proposals for tax deductions, whether at the college or school level, have been opposed by the Treasury Department and the Office of Education in the Department which he formerly headed. This does not cause him great concern. He added that he does not believe Congress should be unduly concerned or deterred by such opposition.

More than 15 percent of all students in the elementary grades, 11 percent in the secondary grades, and 39 percent of the pupils in higher education are in private and parochial schools and colleges.

Obviously, the children educated in private and church schools, if placed in public schools would raise the amount of money now spent for the public schools by a large sum, to be raised by taxation. To some extent and for that reason, there should be Federal aid to the parents and to the schools in which these children are educated. It seems a valid reason, certainly, for the Ribicoff measures.

[From the Catholic News, May 23, 1963]

ACT LIKE GROWNUPS

Senator RIBICOFF'S program for cutting through complications and ending the dispute over private school aid merits support of both sides. RIBICOFF served for 2 years as the cabinet member directly concerned with getting a school aid program through. Just before leaving office a year ago, he had expressed his conviction that channels were available, within constitutional limits, for including private schools. Now he has detailed such a program. He has pointed out that the Nation depends on better education for its 6 million private school pupils as it does on better education for those in public schools. Like Walter Lippmann earlier, the Senator appeals to Americans to act like grownups and get over the difficulties. We trust they will.

[From the Baltimore Catholic Review, May 23, 1963]

A SPEECH TO REMEMBER

As time goes by, it may turn out that a landmark speech was made this week in the

U.S. Senate. In this speech Senator RIBICOFF, offered the beginnings of a solution to the religious controversy aroused by the administration's Federal aid to education programs.

The individual elements of the Senator's plan are not new in themselves. What makes it admirable is its tone of fairness, its thoroughness and its realism. What makes it especially important is the Senator's background as a former Secretary of the President's Department of Health, Education, and Welfare.

His appeal is to responsible citizens who recognize that excellence of education is a categorical imperative in present-day America. "Are the adults of America mature enough," he asks, "to resolve their differences for the education of their children?"

Speaking out of his wide Government experience, he affirms that there is a surprising amount of agreement among Americans as to what is desirable and what is not desirable in this area. Recent surveys, both published and unpublished, support his statement.

Lamenting the fact that minority extremists have dominated the debate on Federal aid to private schools, the Senator affirms his conviction that the extremist demands of neither side can be or should be fully realized.

While we cannot speak for the American Catholic bishops, we can point out that their position in the debate does not fall within the Senator's definition of an extremist stance. Much of Mr. RIBICOFF's plan is, of course, predicated on the conviction that there should be Federal aid to education. Our Catholic bishops, like Americans generally, are divided on this point.

Nevertheless the Senator's arguments are broader in significance than the specific issue of Federal aid itself, and will surely find a sympathetic reading among Catholic leaders. Catholics in general should study the speech; for that reason it is reprinted in its entirety in this issue.

[From the Hartford (Conn.) Times, May 24, 1963]

SCHOOL AID, INSISTENT ISSUE

Senator RIBICOFF's appeal for thoughtful moderation to resolve differences over Federal school aid is timely and necessary.

However, he is not unmindful of how difficult it is just to achieve some helpful flexibility in approaching a solution.

As he notes, while he served as Secretary of Health, Education, and Welfare, the Senator stood at the center of the school aid dispute; he knows the depth of feeling and the strength of convictions involved in matters that rasp civic and religious sensitivities.

Yet it must be clear by now to most—as it is to Senator RIBICOFF—that for too long, public debate has been dominated by proponents o, the extreme: Those who want the Federal Government to finance private education exactly as it finances public education and those who want no financial assistance to private education at all.

Such rigidities must be broken and more useful opinion must prevail if the issue is to be settled. As far as we can gather a majority favors the proposition of enlarged Federal educational help; few indeed champion the view that there is advantage in a stalemate.

The six-point educational aid program Senator RIBICOFF has offered is not assumed to be either complete or unalterable. But it forms a basis for action where there has been only an arena for unavailing argument.

Briefly, the RIBICOFF proposals call for income tax deductions for college expenses at both public or private institutions; deductions for tuition at chuch-related or other private schools; Federal school construction help and aid in teacher training regardless of public or private identity. He would end one part of the controversy by furnishing bus and health services and school lunches to private school pupils on the same scale as to public school pupils.

Besides the wide wrangle over religious and constitutional views which have been prominently discussed, this issue has impact dimensions not commonly known.

More than 15 percent of all pupils in elementary grades go to private schools as do 11 percent of all who are in secondary grades. Thirty-nine percent of higher education enrollment is in private institutions. Except in the colleges, the larger part of private enrollment is in church-related schools.

That has sharpened the debate on Federal school aid, but as Senator RIBICOFF states:

"It is a fact that the education of each of these children means just as much to the strength and future of this Nation as the education of every child in public school"—something that should not be buried in the heat of opposing frictions.

Regarding this, Senator RIBICOFF says, "There is widespread agreement that nothing in the Constitution impairs the tax-exempt status which churches and church-related schools enjoy. There is also substantial agreement that the Constitution permits the type of financial assistance now rendered to private education, including the National Defense Education Act, the college housing program and various research grant programs.

"At the other end of the spectrum we find substantial agreement that the Constitution does prohibit financial assistance for religious teaching.

"Thus, there is agreement both that the Constitution does place some outer limits on the use of public funds for private education, and that there is a range of activity within these limits where some forms of public assistance are permissible."

As Senator RIBICOFF has it, "The issue of public aid for private education resembles the issue of Federal aid to education itself: may people argue whether it should exist, while the plain fact is that it does exist."

To us, as to Senator RIBICOFF, it seems that the decision to be made is what further form it should take—in what amounts and for what purposes?

We fail to see consistency in the attitude of some that it is all right to expend public money for school lunches or for transportation because such services "are for children as children"—while education itself, one must suppose, is not for them. The services are intended to make the process of education more possible, and the end itself cannot be abandoned as a concern of Government or a proper point of use for public funds.

Senator RIBICOFF continues his appeal to reason in his discussion of tax deductions to help those who send their children to a private school, or for parents who send children to either a public or a private college.

Too often the comment on tax deduction has revolved around the question of choice: If one wishes to ignore the public schools and send his children to a private one, then that is his choice—let him pay the full additional costs.

Yet, as the Senator explains, that does not constitute a complete estimate of the matter: "We should not ignore the substantial saving to the public resulting from the fact that more than 6 million children are not being educated at public expense. The simplest way to recognize some part of the public saving is to allow parents a deduction from their income tax payments for a portion of private school tuition."

Parents of children in private school still would be put to added expense for their choice, but the public would not blind itself to the plain fact of the public savings in connection with the private school choice.

Is there a religious leaning in this? Possibly. But why can't it be squared with the other—unquestioned—deductions now allowed for religious purposes?

Senator RIBICOFF notes, "We now allow income tax deductions for donations made directly to churches. These donations support not only church-related schools, but also the full range of religious activity of the church."

It seems to us that a great deal of entrenched, but inconsistent, prejudice must yield before the logic of Senator RIBICOFF's proposals.

This is not to say that every reservation one holds should be tossed away. However, minds must be opened to the prevailing facts.

In effect, Senator RIBICOFF is asking for a complete reevaluation of our outlook on the relationships of the entire public and private educational systems in light of the vast expansion and importance of the latter, and its unassailable contributions to the public welfare.

A changed outlook is not easy for many to assume, because for so many years, private education has been a go-it-alone proposition. Government has always encouraged the whole broad field of education, but it has been the general understanding that it only undertook to support public instruction.

Yet, over the years, by breach after breach of this understanding—in defense education help, in college research programs, through school lunches and a dozen other ways—restraining lines have been crossed and the exceptions that exist now make any strict construction of the rule impossible.

Surely a question must be whether every Federal grant to public schools is to be paralleled by the same sort of help, in proportional amounts, to private schools.

If that is to be the case, one can look ahead to see government encroaching on control of private education, for authority follows the dollar inevitably.

One cannot simply forget Federal aid to education and thereby remove its perplexities from the scene. Federal aid is with us now, and increasingly will be as the population increases and pressures for instruction mount.

The quandaries are these: Private education fears prospects of government controls through extensions of aid, but also it fears being left at a disadvantage in any substantial distribution of school funds in which it cannot share.

It would be easy if one could dismiss such concerns as being of a wholly private nature with observation that, of course, one sympathizes, but public education cannot be cramped or harried through necessity to be teamed with the private education sector's risks or woes.

Such an easy out, however, is impossible to accept in this Nation where the future of the extension private school system just cannot be dismissed as irrelevant or unconnected with the public interest.

It seems to us that Senator RIBICOFF's call for fair discussion of school aid, and his projection of facts and proposals to support such discussion constitute an important public service at this moment.

But the effects over the long term cannot be forgotten either, and if we are to redefine and reimplement total educational policy—which in essence would be the result of Senator RIBICOFF's suggestions—a tremendous amount of thought must go into the job, bearing on the consequences of decisions.

It is apparent, however, because of the pressure of the forces involved, that decision cannot be circumvented.

[From the Hartford Courant, May 22, 1963]

SENATOR RIBICOFF'S EDUCATION PLAN

Senator RIBICOFF, speaking for himself and not as spokesman for the Kennedy administration, has introduced a new educational bill that he hopes will overcome some of the old obstacles. The measure, said Senator RIBICOFF, had not been cleared with the White House, nor was it a trial balloon. Instead, he said it represented his own ideas of what should be done.

There are several features of the bill that will appeal to a great many parents who are struggling either to send their children to a private school or to college. Under the terms of the Ribicoff bill, parents would be permitted to deduct college expenses up to $1,500 a year per student, and high school expenses up to $100. This school deduction is an entirely new proposal, and would doubtless be opposed by some Congressmen who still regard a college education with considerable suspicion.

Other provisions of the bill include Federal support of shared time. This is the first time that shared time would be subsidized by Federal money. This is an educational plan whereby private and parochial pupils take part of their education in public schools. For example, a parochial student might take science or mathematics at a public school while remaining in parochial school for religion, history, and other subjects. Some form of shared time is now being tried in 17 States.

In addition to these two innovations, Senator RIBICOFF would authorize Federal help for classroom construction, but limited to rooms for science, mathematics, foreign languages and the like. This is not unlike other Federal building programs in the past designed to build up our science teaching resources and which, incidentally, were never disapproved by the Supreme Court.

Mr. RIBICOFF would also provide 1-year scholarships for public and private schoolteachers to study at universities, provide Federal aid for private pupil bus transportation, and give broad Federal aid for both public and private colleges.

It would be fatuous to believe that Mr. RIBICOFF's plan will be accepted without a real legislative fight. It is a temperate, middle-of-the-road approach, but for that reason may still be opposed by the extremists at both ends of the educational spectrum. There are few legislative areas that are so completely shot through with emotional and prejudicial concepts, all of which prevent consideration on the simple basis of what is best for the child and the country as a whole.

[From the Bridgeport Post, May 22, 1963]

RIBICOFF SEES A WAY

When men of good will cannot come to an understanding on behalf of a good cause, a search must be launched for some way to settle their honest differences.

Perhaps there has not been enough hunting for areas of agreement by the thoughtful moderates on both sides of the church and state question which has blocked Federal aid to education.

Toward this end, leadership is currently being provided by Connecticut's Senator ABRAHAM RIBICOFF. He has put forth a six-point program which might serve as a basis for Federal aid to education for public and private schools without doing damage to the principle of separation of church and state.

Senator RIBICOFF's six-point program explores the range of activity within which public assistance could be given to private schools. His program would provide aid in the form of income tax deductions, Federal financing of the share-time approach, under which private school students use such facilities as gyms and workshops of public schools on a part-time basis.

He also suggests assistance at private schools for teaching in selective areas like mathematics and science. Teacher training programs could be provided for all teachers as well as auxiliary services in the health and transportation field under Federal aid. There could be broad support of higher education at both public and private colleges under a Federal-aid program.

In short, Federal assistance is being sought by Senator RIBICOFF for nonreligious aspects of private education. This might be the way to resolve the controversy that has blocked the passage of every proposal for Federal aid to education that the Kennedy administration has recommended to Congress.

[From the Bridgeport (Conn.) Telegram, May 25, 1963]

RIBICOFF'S NEW APPROACH

Criticizing Congress for inaction and educational groups for stubborn resistance, Senator ABRAHAM A. RIBICOFF tried to break the impasse on Federal aid to education with a six-point program that at least offers a new approach. It includes an accumulation of ideas that he carried with him to the Senate from his service as Secretary of Health, Education, and Welfare under President Kennedy.

The plan would give income tax deductions of up to $1,500 for college expenses at both public and private colleges, and up to $100 for tuition expenses at church-related and other private elementary and secondary schools; Federal financing of shared-time facilities for private school students in public schools; Federal aid for constructing mathematics, science and language classrooms in private schools, now limited to teaching equipment; bus transportation, health services, and school lunches to private students, now limited to public school students; Federal aid for teacher training programs and broad Federal support of higher education to both public and private colleges.

Senator RIBICOFF's program seeks to replace bitterness about the religious controversy in education with reason. As the Secretary responsible for Federal education policy for 2 years, he learned the depth of the feelings and the strength of the convictions involved. If his plan stimulates debate, and moves the controversy away from the extremes favoring and opposing aid to private schools, it will serve a good purpose.

It should provoke thoughtful consideration, and amendment, until an acceptable plan is developed that will do justice to all children, and overcome any religious controversy.

[From the New Haven Register, May 26, 1963]

ANOTHER GO AT THE AID-TO-EDUCATION PROBLEM

Whether one likes it or not it can be agreed, we think, that Federal aid to education is here to stay—and State aid, too, for that matter.

Therefore we think it also must be agreed, however reluctantly, that controversy surrounding these types of education, as to amounts, types and recipients, likewise is here to stay—for some considerable time at least.

It seems to us, therefore, that Connecticut Senator ABRAHAM RIBICOFF is being overly optimistic in putting forth his six-point program as a "basis on which the religious controversy in education can be solved."

The Ribicoff plan avoids direct cash transfusions between the government and private or parochial schools.

It proposes:

An income tax deduction (parental) of up to $1,500 for college expenses at any institution of higher learning and up to $100 in deductions for tuition expenses at private or parochial schools;

Federal subsidies for shared-time programs in which private or parochial school pupils use public school facilities such as gymnasia, vocational shops, art studios or auditoriums;

Special assistance for specialized educational areas such as math, science or foreign languages in private schools;

More summer institutes and advanced training opportunities for private as well as public school teachers at Government expense;

Expansion of auxiliary services—health programs, bus transportation, etc.—at private schools through Federal grants;

And a generalized broadening of public support for higher education at both private and public colleges.

Connecticut's junior Senator has obviously tried to open up a field of broad discussion and evaluation while avoiding some of the present areas of habitual controversy whenever the eduaction issue is raised.

He shows appreciation, likewise, of the difficulties along the way when he says honest differences of viewpoint, sincerely held, cannot lightly be put aside, and then adds:

"But I do believe that for too long now the points of difference have received all the attention. Now must begin the search for common ground, for the area of agreement, for the basis of resolution."

We do not for a moment think Senator RIBICOFF's six points have led us to this common ground. But if even one among them, or a phrase therein, can point the way, a service will have been rendered.

[From the Waterbury (Conn.) American, May 22, 1963]

RIBICOFF PROPOSAL

Honest differences of viewpoint, sincerely held, cannot lightly be put aside.

But there is such a thing as too much emphasis on differences, and not enough emphasis on areas of agreement.

That, in essence, is what U.S. Senator ABRAHAM A. RIBICOFF, Democrat, of Connecticut, said the other day in the Senate when he proposed a six-point program to provide a basis on which the religious controversy in education can be resolved.

For 2 years, as U.S. Secretary of Health, Education, and Welfare, Senator RIBICOFF was right smack, in the middle of the controversy, with regard to Federal aid to education. He is, we would say, as well qualified as any man to speak on the subject with some degree of objectivity.

Religious controversy, in the Senator's opinion, has blocked the passage of every proposal for Federal aid to education and is imperiling the future of our Nation.

He has, therefore, proposed a six-point program which he believes could very well put an end to these disagreements:

1. Income tax deduction of up to $1,500 for college expenses and public and private colleges and up to $100 for tuition expenses at private—including church-related—schools.

2. Federal financing of the shared-time approach, under which private schools use gyms, vocational shops, classrooms or auditoriums of public schools on a part-time basis.

3. Expanded assistance at private schools for teaching in selective areas like math, science and foreign languages.

4. Teacher training programs to increase summer institutes for all teachers and provide scholarship aid for teachers to return to universities for advanced training.

5. Auxiliary services, such as health services and bus transportation, for private school students.

6. Broad support of higher education at both public and private colleges.

Whether, at first glance, these proposals meet with broad public acceptance, is not especially important. We do believe, how-

ever, that they provide a basis for new discussion of the matter and the hope that eventually they will bring about an answer to the question:

"Are the adults of America mature enough to resolve their differences for the education of their children?"

[From the New Britain Herald, May 22, 1963]

RIBICOFF AND "DYNAMITE"

The Federal aid to education issue is still very much alive, though the bitterness of last year's experience centering on the so-called religious issue seems to have stilled much serious debate.

However, in Congress on Monday, Senator ABRAHAM A. RIBICOFF met the issue head on with a most challenging message to America. He specifically urged a six-point program of Federal assistance to parochial and private schools.

Much of the program is old, some of it is new, but most important is the man who made the proposals and the framework in which he couched them.

Senator RIBICOFF is uniquely qualified to be a leading spokesman for this cause, if only because of his 2-year term of indenture as Secretary of Health, Education, and Welfare. "I stood at the center of the dispute," he told the Senate. "I know the depth of the feelings, and the strength of the convictions involved. I know, too, the frustrations that await those who venture into this area."

The framework, basically, was an appeal for "voices of moderation" to come between the pro-Federal aid and anti-Federal aid factions which have dominated the issue to date.

The six points suggested by Mr. RIBICOFF are: Income tax deductions up to $1,500 for public or private college education and up to $100 for tuition fees at private or parochial elementary or secondary schools; Federal aid for "shared time," under which private schools use public school facilities; Federal aid for science, math and language classrooms in private schools; bus transportation, lunches and medical service to private school students; broad Federal aid for higher education programs.

"Let no one underestimate the intensity of feeling on this issue," Senator RIBICOFF proclaimed. "Any discussion of Federal aid to education raises many controversial issues, but none packs the political and emotional dynamite of the religious controversy."

These columns heartily endorse Mr. RIBICOFF's pleas for voices of thoughtful moderation across the land, regarding this issue. Extremist thinking, either strongly pro or anti, has created an atmosphere of tension, in which there is little likelihood of anything being accomplished.

Perhaps Senator RIBICOFF asks the Congress to do too much at one time. But some of his points merit serious consideration. And certainly, when he asks whether America is mature enough to discuss this issue dispassionately, we rally the sincere hope that it is.

[From the Hartford (Conn.) Catholic Transcript, May 23, 1963]

SENATOR RIBICOFF'S PROPOSALS

Senator RIBICOFF offered this week a plan to end the impasse on Federal aid to education. He sees the heart of the problem as the extremist attitude of proponents and opponents of aid to young citizens attending church-related schools. The "religious controversy," in his view, "has blocked the passage of every proposal for Federal aid to education that the administration has recommended to Congress." This we find something of an oversimplification. There is strong opposition to Federal aid on grounds having nothing whatever to do with religion. But it is unquestionably true that the religious controversy is a principal element in the prevention of the legislation sought.

The Senator's proposals fall into two categories: Those directly related to education in the years when it is compulsory, and those indirectly or not at all so related. In the latter class are the questions of tax relief to parents of students in public or private colleges, of grants or loans to colleges of every sort, and of auxiliary services (such as bus transportation and health care) of direct benefit to children attending nonpublic elementary or secondary schools. These questions, while capable of arousing partisan passion in some places, are not so generally critical as those encompassed in the first category.

In that first category, an immediate connection with compulsory education in freely elected and fully accredited church-related schools is posited. The Senator rules out anything even approaching total subsidy of such education. He advocates a more or less modest measure of relief. His caution is dictated by considerations of constitutionality. As he reads the decisions of the Supreme Court, support cannot be found for the contention that no limits may be set on assistance where a nonpublic school is concerned. Therefore he advocates (1) a tax deduction for at least part of the tuition at church-related elementary and secondary schools; (2) Federal allotments to the States for all nonpublic schoolchildren who use public school facilities on a shared time basis; (3) Federal assistance in the construction of parochial school classrooms to be used exclusively for secular subjects; (4) Federal assistance in training and scholarship programs for teachers in any schools.

We believe that underlying Senator RIBICOFF's program are solicitude for the needs of the Nation and of all its citizens, a sense of fairness, and a shrewd estimate of what is presently possible. We do not regard it as the last word on the subject, and suspect that he does not, either. It is a beginning, a viable device for breaking a logjam whose persistence imperils the quality of American education and the welfare of America itself. On the clear understanding that it does not constitute a full and final solution, we should like to see it tried.

ORDER OF BUSINESS

Mr. YARBOROUGH. Mr. President, will the Senator yield to me?

Mr. CANNON. Mr. President, I ask unanimous consent that I may be permitted to yield to the Senator from Texas [Mr. YARBOROUGH] without losing my right to the floor.

The PRESIDING OFFICER (Mr. BURDICK in the chair). Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

GI EDUCATIONAL BILL AIDS COLLEGES AND ENTIRE CAUSE OF EDUCATION, AS WELL AS VETERANS THEMSELVES

Mr. YARBOROUGH. Mr. President, I have recently received a letter, dated July 9, 1963, from the president of the University of Nevada, Mr. Charles J. Armstrong, in which he voices strong support for the passage of the cold war GI bill, S. 5. This is only one example of the many letters which we have received in support of this bill from the administrators and educators of the colleges and universities of the United States. Excerpts from more than 100 letters are included in the record of the hearings held by the Subcommittee on Veterans' Affairs.

The millions of cold war veterans who will be able to continue their education if this bill is passed and the hundreds of thousands of vitally needed engineers, scientists, doctors, and teachers, who will be furnished to the Nation have been discussed on many occasions in this Chamber. But what are often overlooked are the benefits which the universities and colleges themselves will achieve by the passage of this bill. The following excerpt from a letter from John A. Hannah, the president of Michigan State University, illustrates some of these benefits:

> Most educators agree that the returning veterans, with their maturity and experience, forced the standards of teaching upward, and thus unknowingly prepared for the further advance in the teaching art made necessary by recent scientific and international developments. They were good, serious, demanding students, and they provided a tonic for an educational system that may have become jaded with the years.

Dean Robert B. Bernreuter, of Pennsylvania State University, has testified before the subcommittee on two occasions that the dean of men has consistently chosen veterans as counselors for the men's residence halls due to their greater maturity and sense of responsibility. Dean Bernreuther also reported that Pennsylvania State University gives preference to veterans over nonveterans in admitting new students since the studies conducted by the university have shown that the veterans are better students achieving higher grades, a smaller percentage of dropouts and that they constitute virtually no disciplinary problem for the university.

Even the nonveteran sections of our student bodies will benefit by a new influx of veterans into our institutions of higher learning. Not only will the nonveteran benefit by the competition from the veterans and the raising of educational standards, he will also be the beneficiary of the experience and the mature outlook on life which the veteran brings to the campus. The nonveteran will also benefit from the decrease in veteran pressure on the limited number of scholarships and loans available at one school.

Article after article, letter after letter has pointed out the success of the World War II and the Korean GI bills for the universities and colleges, for the veterans and for the Nation as a whole. The value of the cold war GI bill to this Nation cannot be doubted, and even though it is designed to lend readjustment assistance to the veteran, one should not overlook its value as an aid to education bill—a bill which does not suffer from many of the objections voiced against other aid to education bills presently being considered by Congress.

Mr. President, I urge the Senate to take up and pass the cold war GI bill, S. 5, Order No. 319 on the calendar, and to lend readjustment to the more than 500,000 cold war veterans who return to civilian life each year. This bill has

been on the calendar over a month. It should receive consideration.

Mr. President, I ask unanimous consent that Dr. Armstrong's letter may be printed in the RECORD.

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

UNIVERSITY OF NEVADA,
Reno, Nev., July 9, 1963.

Senator RALPH W. YARBOROUGH,
Chairman, Subcommittee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR YARBOROUGH: I was delighted indeed to learn from your letter of July 1 that on June 25 the Senate Labor and Public Welfare Committee voted to report the cold war bill, S. 5, with the recommendation that it be passed. This is a major achievement, and I congratulate you upon your success in bringing this important legislation forward.

Naturally you may count on our continuing support of the legislation, and I hope that if there is anything specific which we can do to assist you will let me know.

Your interest in writing me is deeply appreciated. Kindest personal regards.

Cordially yours,

CHARLES J. ARMSTRONG,
President.

ORDER OF BUSINESS

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

Mr. CANNON. Mr. President, I ask unanimous consent that I may yield to the Senator from Alaska without losing my right to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

Mr. GRUENING. Mr. President, I am extremely grateful to the distinguished Senator from Nevada.

RUSSIAN FISHING VESSELS INVADE ALASKAN WATERS

Mr. GRUENING. Mr. President, we shall shortly be asked to vote on the ratification of a treaty with Russia concerning nuclear testing. I think it is desirable therefore that we explore fully actions which Russia is taking in other fields which adversely affect the interests of American citizens, actions which are in violation of international law and existing treaties.

In this connection, I wish to alert the Senate to some distressing and pertinent information which I have just received from Alaska.

Last Saturday I received a telegram from a representative in the Alaska State Legislature by the name of Gilbert A. Jarvela, which reads as follows:

Jap and Russian catcher boats sighted inside 3-mile limit. Have witnesses and photographs. Urgently need Federal assistance to seize and arrest offenders. We need protection now.

I immediately wired Adm. Fred Bakutis, commander of the Alaska Sea Frontier and of the 17th Naval District, asking him to check on the matter; and likewise, sent a telegram to Adm. W. D. Shields, of the Coast Guard. By the time their investigation had been made, the foreign vessels had withdrawn.

I ask unanimous consent that the text of their replies be printed in the RECORD at this point in my remarks:

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

AUGUST 3, 1963.

Senator ERNEST GRUENING,
U.S. Senate,
Washington, D.C.:

Your telegrams received and am attempting communicate Gil Jarvela for further details as to geographical location. Mr. Jarvela presently airborne in a Kodiak Airways plane headed toward Chignik Bay.

Last Monday my headquarters was advised by Mr. T. H. Richardson, area biologist Alaska Department Fish and Game that two Soviet whale catcher boats had been observed operating within territorial waters 1 mile north of Nakchamik Island, Chignik Bay, on July 28 and that an additional catcher and mother ship off Sutnik Island. This information was relayed to the commander Coast Guard District 17 in Juneau and to the commanding officer Coast Guard air detachment, Kodiak. The Coast Guard responded immediately by sending a Grumman amphibian to Chignik Bay. This plane observed several Russian vessels outside territorial waters but none inside. The Coast Guard, meanwhile keeping the bay under periodic air observation, diverted the ice breaker *Northwind* to patrol the bay yesterday and the cutter *Vinona* is presently en route to Chignik, will arrive tonight to patrol for the few days.

Believe the Coast Guard has the situation well in hand. However, am passing your telegrams to Coast Guard authorities at Juneau and Kodiak.

Best regards,

FRED E. BAKUTIS,
Rear Admiral, U.S. Navy Commander,
Alaskan Sea Frontier.

AUGUST 3, 1963.

Hon. ERNEST GRUENING,
U.S. Senate,
Washington, D.C.:

Reference your wire of August 3. Coast Guard observation aircraft were dispatched immediately on receipt of the sighting report of the Japanese and Russian whaling vessels operating inside the 3-mile limit on July 31. This sighting report was made by Mr. Jarvela to the Coast Guard Air Detachment at Kodiak 24 hours after the vessels were sighted. On arrival of the Coast Guard aircraft no vessels were sighted within territorial waters. The Coast Guard cutter *Northwind* is presently in the area of the sighting and has been instructed to conduct further investigation in this matter. Regular aircraft patrols are being made through this area.

Rear Adm. W. D. SHIELDS,
Commandant, Coast Guard District 17.

Mr. GRUENING. Mr. President, this morning I received a further telegram from Representative Jarvela, which states that four Russian whalers were sighted inside the 3-mile limit at Nakchamik Island, Chignik Bay; that eyewitnesses saw one whaler with a freshly killed whale alongside another whaler that was in the act of firing its harpoon; that eight eyewitnesses have previously been contacted to send statements and any available photographs to Governor Egan.

Representative Jarvela goes on to say:

I have talked to Chignik fishermen and they state there have been other violations on previous occasions.

And that he heard of the violation on the 29th of July and immediately notified the Coast Guard.

That on the 31st a Kodiak Airways pilot again spotted a whaler in the same location a mile offshore.

He was unable to contact Admiral Bakutis at that time. He discussed this situation with the commanding officer of the Coast Guard Air Detachment at Kodiak.

Jarvela reports that he maintains stringent air surveillance in the process but that the vast coastline is difficult to police even with the entire Coast Guard available. He also states that the Coast Guard officer feels our available vessel can match the whalers for speed but that local experienced skippers seem to disagree.

I ask unanimous consent that the full text of Mr. Jarvela's telegram be printed at this point in my remarks.

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

KODIAK, ALASKA,
August 6, 1963.

Senator ERNEST GRUENING,
U.S. Senate,
Washington, D.C.:

On July 17, 1963, four Russian whalers were sighted inside 3-mile limit at Nakchamik Island, Chignik Bay, Alaska. Eyewitnesses saw one whaler with freshly killed whale alongside. Another whaler was in act of firing its harpoon. Eight eyewitnesses have previously been contacted to send statements and any available photographs to Governor Egan. I have talked to Chignik fishermen and they state there have been other violations on previous occasions. I heard of the violation on the 29th of July and immediately notified the Coast Guard. On the 31st, a Kodiak Airways pilot again spotted a whaler in the same location a mile offshore. Unable to contact Admiral Bakutis at this time. Discussed situation with the commanding officer, Coast Guard Kodiak air detachment. He maintains stringent air surveillance in process but vast coastline difficult to police even with the entire Coast Guard available. Also states our available vessels can match the whalers for speed. Local experienced skippers seem to disagree. I do not have any facts on this. We will get statements from witnesses soon as possible plus available photographs. These will be slow in coming. Greatly appreciate your efforts.

Representative G. A. JAVELA.

Mr. GRUENING. Mr. President, a year ago, when the Russian fishermen were pulling up Alaska's crab traps, I wired the President, urging that a destroyer—a speedier vessel than is now stationed in Alaskan waters—be sent there to help patrol our coast. This is a serious matter, and while I have no criticism whatever of either the Coast Guard district's or the 17th Naval District's performance, I am reluctantly led to the conclusion that they either do not have adequate ships or the necessary authority to prevent the repetition of this invasion of our waters.

This coast is often fogbound and it appears that foreign vessels take advantage of the fog to penetrate within our 3-mile limit and withdraw as soon as the fog lifts, thus making the detection of their violations difficult.

I also would like to call attention again to the legislation which I introduced,

with the distinguished junior Senator from Maine [Mr. MUSKIE] as cosponsor—S. 1816, which would make it possible for any State so desiring to extend the limits for its fishing from 3 to 12 miles. I introduced this bill following the unilateral action of Canada in extending its fishing limits from 3 to 12 miles. It would be helpful in such situations as the one I am here discussing.

I ask unanimous consent that a statement I made on the floor of the Senate on June 28, which includes the text of the bill itself, be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Alaska? The Chair hears none, and it is so ordered.

(See exhibit I.)

Mr. GRUENING. Mr. President, we shall be asked shortly to approve a treaty which will stop nuclear testing in the air and under the sea. The implications, of course, are that the cold war is thawing and that our relations with Russia are becoming friendlier. I would like to see specific evidences of this before this treaty comes to a vote in the Senate. Russian respect for our fisheries would be a useful indication of such a thaw.

Certainly our Government could assist Russia greatly by improving its vigilance and its ability to stop these violations of our national waters by stationing additional and faster naval vessels in Alaskan waters. Mere observation of these violations and subsequent diplomatic protest is not enough. Violators should be seized and brought to trial.

EXHIBIT I

THE 3-MILE LIMIT: AN ALBATROSS AROUND THE NECK OF U.S. FISHERMEN

Mr. GRUENING. Mr. President, the time has come for this Nation to look realistically at its questionable policy of maintaining a 3-mile territorial water, thereby permitting fishermen from other nations to deplete our fish stocks and negate our attempts at conservation and protection of this valuable resource.

Fishing vessels of other nations make themselves at home in our waters, fill their vessels with fish, and in so doing deprive U.S. fishermen of the catch.

Commercial fishing has become big business.

Some nations literally use fleets, complete with so-called mother ships which have cleaning and freezer facilities aboard. This modern method of fishing, which surpasses existing U.S. efforts, makes it mandatory for us to modernize our thinking concerning the breadth of the territorial sea. Our outmoded thinking has kept the United States in fifth place among the fishing nations of the world.

Our national policy as it concerns our commercial fishermen is quixotic. As Don Quixote tilted with windmills, we, alas, tilt with the wind. As we idealistically adhere to our antiquated and obsolete 3-mile territorial water, other nations catch our fish.

I can find no cause to grumble because Canada realistically has extended its maritime jurisdiction from the traditional 3 miles to the realistic 12 miles. Indeed, I admire and commend Canada for taking this action in behalf of its fisherman and its economy. I suggest that the United States pursue a similar course of action. I am introducing a bill today which would, under certain circumstances, extend the territorial waters of the United States to 12 miles for fishing purposes.

I suggested on April 19, 1962, when the Japanese fishing fleet had invaded Alaskan waters, that what really should be secured, besides an affirmation of U.S. fishing rights, was the extension of U.S. fishing grounds to a 12-mile limit. I said:

"The 3-mile limit is an obsolete provision dating from days when 3 miles was the approximate distance a cannonball from a shore battery could hit a hostile vessel."

More recently Russian fishing fleets have been sighted, their crews busily fishing, off Kodiak, just outside the 3-mile limit.

I asked the Legislative Reference Service of the Library of Congress to explore the possibility of extending the Alaskan territorial waters for the purposes of protection of coastal fisheries earlier this month. I ask unanimous consent that a memorandum I received from the American Law Division be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Is there objection to the request by the Senator from Alaska? The Chair hears none, and it is so ordered.

(See exhibit 1.)

Mr. GRUENING. Mr. President, it is revealing that no constitutional objection exists to an extension by the United States of its 3 miles for territorial sea. Conversely, a State is not free to proclaim the breadth of its territorial sea. But there is no reason preventing the Federal Government from extending all or a portion of this Nation's territorial waters.

The fifth point raised by Mrs. Goler T. Butcher of the American Law Division is pertinent. Mrs. Butcher, in her memorandum writes:

"5. In conclusion it should be stated that this whole area of the breadth of the territorial sea and of the right of the coastal sea to require the practice of conservation measures by other nations fishing near her coasts is at present in a state of fluidity. As recognized by the great legal scholar, Hans Kelson, the 3-mile limit, which was never adhered to by all nations, has become antiquated. Further reasons of justice and expediency would seem to give the coastal State the right to establish, in concert with other nations customarily fishing near her territory, conservation and protective measures."

In 1956 a report by the International Law Commission said that international practice was not uniform so far as the breadth of territorial waters was concerned.

The report of the Commission added that the Commission considered "that international law does not permit an extension of the territorial sea beyond 12 miles."

Miasma which arises from the territorial sea claimed by various nations is overpowering. Consider these inconsistencies, as stated in the report:

"BREADTH OF TERRITORIAL WATERS EXPRESSED IN THE SECOND COMMITTEE OF THE CONFERENCE OF APRIL 3, 1930

"Brazil: Favored 6 miles.

"Belgium: Favored 3 miles plus contiguous zones.

"Canada: Favored a 3-mile limit.

"China: Favored a 3-mile limit.

"Chile: Favored 3-mile limit plus contiguous zones.

"Colombia: Favored 6 miles.

"Cuba: Favored 6 miles.

"Denmark: Favored 3-mile limit.

"Egypt: Favored 3 miles plus contiguous zones.

"Finland: 4 miles and favored contiguous zones.

"France: 3 miles plus contiguous zones.

"Germany: 3 miles plus contiguous zones.

"Great Britain: Favored 3-mile limit.

"Greece: Favored 3-mile limit.

"Iceland: Proposed 4 miles.

"India: Favored 3-mile limit.

"Iran: Favored 6 miles if a contiguous zone were added.

"Ireland: Favored 3-mile limit.

"Italy: Favored 6 miles if a contiguous zone were added.

"Japan: Favored a 3-mile limit.

"Netherlands: Favored a 3-mile limit.

"Norway: Proposed 4 miles favoring the idea of contiguous zones.

"Spain: Favored 6 miles if a contiguous zone were added.

"Sweden: Proposed 4 miles.

"Turkey: Favored 6 miles if a contiguous zone were added.

"Union of South Africa: Favored 3-mile limit.

"Uruguay: Favored 6 miles if a contiguous zone were added.

"Yugoslavia: Favored 6 miles if a contiguous zone were added.

"PRESENT TERRITORIAL LIMITS

"Brazil: 3 miles for territorial sea, 12 miles for fishing.

"Belgium: 3 miles.

"Canada: 3 miles for territorial sea, 12 miles for fishing.

"China: 3-mile limit.

"Chile: 200 miles.

"Colombia: 6 miles territorial sea, 12 miles fishing.

"Cuba: Originally 3 miles, perhaps now the same as Russia, 12 miles.

"Denmark: 12 miles.

"Egypt: 12 miles.

"Finland: Not over 12 miles.

"France: 3 miles.

"Germany: 3 miles.

"Great Britain: 3 miles.

"Greece: 6 miles.

"Iceland: 12 miles.

"India: 6 miles territorial sea, 100 miles fishing.

"Iran: 12 miles.

"Ireland: 3 miles.

"Italy: 6 miles.

"Japan: 3 miles.

"Netherlands: 3 miles.

"Norway: 4 miles for territorial sea, 12 miles for fishing.

"Spain: 6 miles.

"Sweden: 4 miles.

"Turkey: 3 miles, will move to 12 miles for territorial sea.

"Union of South Africa: 6 miles for territorial sea, 12 miles for fishing.

"Uruguay: 6 miles for territorial sea, 10 miles for fishing.

"Yugoslavia: 6 miles for territorial sea, 10 miles for fishing."

Thus, in 33 years 17 nations who participated in the 1930 conference have concluded that the 3-mile limit is outmoded, and were we to ask all nations of the world for an opinion, that number would probably be a great deal higher.

The United States of America can continue to hold to its 3-mile limit, if it wishes, but

such action can be compared to "horse and buggy" thinking. The days of 1805 have passed. Three miles was the distance that a round cannonball could be expected to hit its target.

Earlier this month I asked the Department of State for a list of counties which claim more than 3 miles of territorial sea or exclusive fishing rights. Assistant Secretary of State Frederick G. Dutton subsequently supplied such information.

In his letter of June 17, 1963, he provided a comprehensive survey of such claims made at the two United Nations Law of the Sea Conferences held at Geneva, Switzerland, in 1958 and 1960, along with a synoptical table prepared at the conferences showing the breadth of the territorial sea and adjacent zones claimed by the various nation-states.

Assistant Secretary Dutton also provided a summary of unilateral claims made since the 1960 conference by 11 nations: Albania, Cameroon, China, Denmark, Malagasy Republic, Morocco, Norway, Senegal, Sudan, Tunisia, and Uruguay.

Further, he notes that eight nations are considering legislation to extend their territorial seas. Of importance is the fact that, says the Assistant Secretary:

"The United Kingdom has renounced certain fisheries treaties apparently as a first move toward abandoning the 3-mile limit for fisheries."

I asked the Embassy of Great Britain for additional information and learned the Department of State's reference was to the announcement in the House of Commons about 1 month ago that Great Britain intended to denounce the North Sea Fisheries Convention signed in 1882 and had given 1 year's notice of the intended action.

Further, I found that Great Britain had called for a fall 1963 conference of the nations involved. British fishermen, it appears, have suffered from being excluded from their traditional fishing grounds as well as finding their own waters well fished by others.

Mr. President, I ask unanimous consent that Assistant Secretary Dutton's letter and one enclosure be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered.

(See exhibit 2.)

Mr. GRUENING. Mr. President, it should be recalled that the 1958 Geneva Law of the Sea Conference found the Soviet bloc and the Arab bloc insisting on 12 miles as the limit of territorial waters. The United States and United Kingdom led the group advocating the 3-mile limit, although evidencing some willingness to compromise.

Canada then supported the 3-mile limit and an additional 9 miles for exclusive fishing by the coastal state—a position we find that is taken by Canadian law.

When the United States proposed a compromise 6-mile limit for territorial waters with an additional 6-mile contiguous zone in which the coast state would have exclusive fishing rights, subject only to "historic rights" for states whose nationals had fished in the area for the 5 years previous, the vote was close although it failed to garner the two-thirds required for adoption as a conference recommendation.

We are in fifth place among the fishing nations of the world. Ahead of us are Japan, Peru, Communist China, and the Soviet Union. According to a report prepared by the Department of the Interior's Bureau of Commercial Fisheries, the United States is the largest importer of fishery products. Last year we caught 7 percent of the world's catch and the same year we consumed 12 percent of the world's catch. Among our fish imports were shrimp, sea scallops, spiny lobster, frozen tuna, oysters, and ground fish fillets and blocks. Our imports were the highest in our history. It is reasonable to suggest that at least a larger portion of our imports comes from our own coastal waters outside the 3-mile limit.

Our fishermen fish with old gear and still do a remarkably good job. Our fishermen continue the hook-and-line methods while fishermen of other nations use largescale techniques including trawling.

It is a wonder that our fishermen managed to stay in fifth place.

Even as they strive to keep alive, the Federal Government expends vast sums to restore and rehabilitate the fishing resources of foreign countries. In the past 8 fiscal years, the Federal Government has spent $14,587,064 in 18 foreign countries. Those countries are China (Taiwan), Indonesia, Philippines, Thailand, Vietnam, Ethiopia, India, Liberia, Pakistan, Turkey, Peru, Korea, Laos, Iceland, Yugoslavia, El Salvador, Cambodia, and British Guiana. Peru, recall, is second only to Japan as the leading fishing nation.

Personally, I consider the paradox and performance of our aiding foreign countries to rehabilitate and develop their fishing resources while we neglect our own fisheries and fishermen to be shocking and disgraceful.

The extent of territorial waters has long presented problems.

Mr. Joseph Walter Bingham, professor of law, Stanford University, discussed the complicating aspects at length in his comprehensive, readable treatise "Report on the International Law of Pacific Coastal Fisheries." In his introduction, written November 1, 1938, Professor Bingham says:

"I believe that it is of the utmost importance to the future peace and security of the United States that a definite and consistent policy be adopted at once in protection of interests off our Pacific coast that we would not surrender except under compulsion. Especially we should assert at once and unmistakably our intention to protect our coast fisheries against damaging invasion and, in proper cases, against foreign use, and to extend this protection as far from our coast as efficiency demands."

We may well ask at this point, "What is the limit demanded by efficiency?"

Professor Bingham wrote of the great importance to our economy of the Alaskan salmon fisheries—"and the need of wide control over Alaskan waters to our future defense and safety"—points he said Japan and Canada and all the States recognize more clearly than did the general American public.

Dr. Bingham continued:

"There is no phase of the history of international affairs which evidences more strikingly the part which selfish national interests play in the development of the doctrines of international law than the history of fishery claims and their effects on legal opinions concerning the law of jurisdiction over sea areas."

As far back as 1937, the Department of State, in a note to Japan, stated:

"The emphasis which has been placed in this statement upon the situation in Bristol Bay arises from the fact that the activities of Japanese fishing vessels have been chiefly observed there; it should not be inferred for this reason that a similar situation in other Alaskan waters would be of less concern to American fishing interests.

"Having in mind the high importance of the Alaskan salmon fisheries as an industry fostered and perpetuated through the efforts and economic sacrifices of the American people, the American Government believes that the safeguarding of these resources involves important principles of equity and justice.

It must be taken as a sound principle of justice that an industry such as described which has been built up by the nationals of one country cannot in fairness be left to be destroyed by the nationals of other countries.

"The American Government believes that the right of obligation to protect the Alaska salmon fisheries is not only overwhelmingly sustained by conditions of their development and perpetuation, but that it is a matter which must be regarded as important in the comity of the nations concerned."

In commenting on the text of the note, Professor Bingham says:

"As long as American right to control our Pacific salmon fisheries is not established, there is therefore a constant threat to our peace and the circumstances of some future fishing invasion by foreign vessels may be such as to carry the controversy beyond diplomatic control."

The United States purports to hold to the 3-mile rule yet finds reasons to make exceptions. Important exceptions seem to be in connection with smuggling.

In the United States often individual States have claimed territorial waters in excess of 3 miles.

Of the 20 coastal States in 1942, only 3—Oregon, California, and Washington—had specific territorial waters designations, being in each instance either 3 English miles or 1 marine league in breadth. Georgia, Massachusetts, New Jersey, and Rhode Island expressly adopted the 3-mile rule. Alabama, 18 miles; Florida, 9 miles; and Louisiana, 27 miles. Texas historically claimed 3 leagues—9 miles—from land along the Gulf of Mexico. Mississippi claimed 6 leagues—18 miles—and all islands within 6 leagues of the shore. These State rules, notwithstanding their questionable validity in this area of national control, do indicate that the 3-mile rule had been neither mandatory nor uniform in the United States.

While the claims of the States to territorial waters were questionable, the issue had never been specifically adjudicated. State jurisdiction was unclear until the decision in the Tidelands Oil case—*United States* v. *California,* 332 U.S. 19, 1947. At that time the U.S. Supreme Court ruled that the submerged oil lands were property of the National Government rather than the individual States and that it is the National Government which has the ownership and control over the territorial sea.

Thus the limit is unclear. Indeed, as Professor Reisenfeld wrote:

"The problem of jurisdiction at the maritime frontier is a very complex one under American law. No uniform formula has been devised and the law is far from being well settled."

Therefore, Mr. President, I am introducing a bill which will correct the existing situation by extending the territorial waters of the United States for fishing purposes to 12 miles. I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks and that it remain on the table until July 9, 1963.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD at the conclusion of the Senator's remarks and will lie on the table until July 9, 1963, as requested.

(See exhibit 3.)

The bill (S. 1816) to conserve the offshore fishery resources of the United States and its territories, and for other purposes, introduced by Mr. GRUENING, was received, read twice by its title, and referred to the Committee on Commerce.

Mr. GRUENING. Mr. President, in 1945, President Harry S. Truman issued Proclamation No. 2668 in which he outlined the policy of the United States with respect to coastal fisheries in certain areas of the high seas. On September 28, 1945, President Truman spoke of "an urgent need to protect coastal fishery resources from destructive ex-

ploitation, having due regard to conditions peculiar to each region and situation and to the special rights and equities of the coastal States and of any other State which may have established a legitimate interest therein."

He said that it would be the policy of the United States of America "to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale."

On the same day the President issued Executive Order No. 9633 which reserved and placed certain resources of the Continental Shelf under the control and jurisdiction of the Secretary of the Interior.

And on the same day, President Truman issued Executive Order No. 9634 in which he reinforced his Proclamation No. 2668 by ordering the Secretary of State and the Secretary of the Interior to jointly recommend from time to time the establishment by Executive orders of fishery conservation zones in areas of the high seas contiguous to the coasts of the United States, pursuant to the policies in the proclamation.

Mr. President, this action by President Truman was direct and clear cut. I would hope that we can learn from the past, and I ask unanimous consent that the full texts of Proclamation No. 2668 and Executive Orders Nos. 9633 and 9634 be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered.

(See exhibit 4.)

Mr. GRUENING. Mr. President, slightly more than 1 year ago our former colleague, Senator Ben Smith, of Massachusetts, made a speech which was outstanding in content. Senator Smith presented a realistic program for our fisheries. He outlined the problems facing our fisheries, and he noted that fishing is our oldest commercial industry.

He reminded us that fisheries employ, directly and indirectly, 540,000 American workers. As fisheries are a major industry in Massachusetts so are they in Alaska, many thousands of miles from the eastern seaboard. As the fisheries of Massachusetts are encroached upon by foreign vessels, so are the fisheries of Alaska and of the other coastal States threatened.

Senator Smith, now Ambassador Smith, and this Nation's fishery expert at the ambassadorial level, bluntly described the ills which plague the industry in his May 24, 1962, speech. And he observed that the United States has a remarkable knack for building up the fisheries in foreign nations while it fails to come to the aid of its own.

I agree with Ambassador Smith and point out that the United States cannot delay any longer taking vitally needed action to protect our valuable fishing resources from continued depletion by foreign fishing vessels. The time for action has come.

Finally, Mr. President, on June 4 Prime Minister Pearson, of Canada, proclaimed Canada's extension of its exclusive fishing rights to 12 miles. His statement, released by the Canadian Embassy here, gives cogently the reasons for his action on behalf of the Dominion of Canada. The arguments he adduces apply with equal force to our own problems. I ask unanimous consent that the text of his statement be printed at this point in my remarks.

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

"LAW OF THE SEA

"The law of the sea, a subject of considerable importance in international affairs, is of particular significance for Canada, the seventh largest fishing nation in the world and the fourth largest trading nation, possessing the world's longest coastlines. Traditionally the breadth of the territorial sea has 3 nautical miles, but the Canadian view has long been that a breadth of 3 miles is not adequate for all purposes. It was on December 7, 1956, that a Canadian representative put forth, at a meeting of the sixth committee of the United Nations, the proposal which later came to be known at Geneva as the Canadian proposal, of a contiguous fishing zone beyond the 3-mile territorial sea which would extend to a limit of 12 miles.

"In the light of the failure of efforts to bring about an agreement on the breadth of the territorial sea and the contiguous fishing zone, the Government has decided, after careful deliberation, that the time has come to take firm and national action to protect Canada's fishing industry. It is well known that foreign fishing operations off Canada's east coast, which have increased enormously over the past 5 years, are apt not only to deplete our offshore fisheries resources but are posing other problems. There are indications also that Canada's west coast fisheries may soon be threatened, in similar circumstances an increasing number of countries have felt themselves compelled to abandon the 3-mile fishing limit. All told, more than 40 countries have already extended their territorial limits and more than 50 countries their fisheries limits beyond 3 miles.

"With these considerations in mind, the Canadian Government has decided to establish a 12-mile exclusive fisheries zone along the whole of Canada's coastline as of mid-May 1964 and to implement the straight baseline system at the same time as the basis from which Canada's territorial sea and exclusive fisheries zone shall be measured.

"The Government recognizes that such action will necessarily have implications for other countries, particularly, the United States of America and France, both of whom have treaty fishing rights in some of the areas affected and claims to historic fishing rights in other areas in question. In the case of Canada and the United States of America in particular, there is a long tradition of friendly and fruitful cooperation on fisheries problems and any action by Canada on these matters will, as in the past, take full account of U.S. interests, as well as of those other countries affected.

"It may be recalled that in my discussions with President Kennedy at Hyannisport I informed him that the Canadian Government would shortly be taking decisions to establish a 12-mile fishing zone. The President reserved the longstanding American position in support of the 3-mile limit. He also called attention to the historic and treaty fishing rights of the United States of America and I assured him that these rights would be taken into account. Discussions will be held with the United States of America with a view to determining the nature and extent of the U.S. rights and interests which may be affected by the action Canada is taking. Discussions will also be opened as soon as possible with other countries affected and it is our hope and belief that we will be able to reach agreement with such countries on mutually satisfactory arrangements."

"EXHIBIT 1

"THE LIBRARY OF CONGRESS,
"LEGISLATIVE REFERENCE SERVICE,
"Washington, D.C., June 10, 1963.

"To: Hon. ERNEST GRUENING.
"(Attention Miss Laura Olson.)
"From: American Law Division.
"Subject: Extension of Alaskan territorial waters for purposes of protection of coastal fishery.

"1. Adequate discussion on the applicable principles of international law in this area is contained in the secondary material which has been forwarded. In particular, the monographs by Riesenfeld and Bingham are devoted to questions as to the protection of coastal fisheries. The verifaxed pages from Bishop's 'Casebook on International Law,' pages 487–498, 'Jurisdiction Over Vessels,' concern the recent unsuccessful attempts in the Conference on the International Law of the Sea to reach uniform theory and consistent practice on this. (See also 99 CONGRESSIONAL RECORD 2493, 'The Exercise of Jurisdiction for Special Purposes in High Seas Area Beyond the Outer Limit of Territorial Waters,' a paper by William M. Bishop.) The copy of a memorandum previously prepared in this division, 'Foreign Reaction to the Assertion by the United States of Jurisdiction Over the Continental Shelf' (Butcher, 1963), deals with problems on the Continental Shelf. It should be noted that some of the Latin American States have claimed excessively wide territorial waters of a 200-mile breadth.

"2. Are there constitutional objections to the recognition by the United States of a limit exceeding 3 miles for the territorial sea?

"No, the United States is free to determine the breadth of its territorial sea as it may see fit. There are no constitutional problems involved.

"3. What are the rights of a State in this matter?

"The National Government has ownership, control and paramount rights in the marginal or territorial sea, that is, the coastal belt. The Supreme Court held in *United States* v. *California*, 332 U.S. 19 (1947), that the rights running to the States are in the inland waters to the shoreward of the low water mark and Federal rights and sovereignty exist in waters seaward of the low water mark on out to the limit of the territorial sea, whatever that happens to be, 3 miles or further.

"By reason of the allocation to the National Government under our Federal system of all matters involving relations with foreign nations, all issues respecting international law are properly within the province of the Federal Government alone. Thus a State is not free to proclaim, in accordance with its own determination of its needs, the breadth of its territorial sea.

"4. Notwithstanding the general rule that straits more than 6 miles in width are not subject to the jurisdiction of the coastal State, a valid claim to exercise exclusive jurisdiction over a strait may be founded upon a historical practice, whereunder the coastal State has acquired by prescription a right to include the waters of the strait within her territorial jurisdiction. Also germane here is the fact that the proprietorship of the lands on both sides of the strait is by the same State. These considerations are relevant to the issue of the nature of the waters of Shelikof Strait separating Kodiak Island and the Alaskan peninsula.

"5. In conclusion it should be stated that this whole area of the breadth of the territorial sea and of the right of the coastal sea to require the practice of conservation measures by other nations fishing near her coasts is at present in a state of fluidity. As recognized by the great legal scholar, Hans Kelsen, the 3-mile limit, which was never adhered to by all nations, has become antiquated. Further, reasons of justice and expediency would seem to give the coastal State the right to establish in concert with other nations customarily fishing near her territory conservation and protective measures.

"GOLER T. BUTCHER,
"Legislative Attorney."

"EXHIBIT 2

"DEPARTMENT OF STATE,
"Washington, D.C., June 17, 1963.

"Hon. ERNEST GRUENING,
"U.S. Senate.

"DEAR SENATOR GRUENING: A representative of your office recently requested a list of countries which claim more than 3 miles of territorial sea or exclusive fishing rights.

A comprehensive survey of such claims was made in connection with the two United Nations Law of the Sea Conferences held at Geneva 1958 and 1960, and a synoptical table was prepared by these conferences showing the breadth of the territorial sea and adjacent zones claimed by the various States. A reproduction of the table is enclosed for your information.

"Since that time several countries have made claims to an extended territorial sea or exclusive fishing zone. A summary of such claims since the 1960 Law of the Sea Conference, based on information reaching the Department, is also enclosed. In addition to the countries which have asserted claims, a number have indicated that they intend to do so. Legislation has been introduced (1) in Colombia to extend the territorial sea from 6 to 12 miles; (2) in Ghana to establish a 12-mile territorial sea, with an undefined protective area seaward of this, and up to 100 miles of fishing conservation zone; (3) in south Africa, Costa Rica, and Turkey to extend the territorial sea to 6 miles with a 6-mile contiguous fishing zone; and (4) in the Ivory Coast to extend the territorial sea to 12 miles. Moreover, Canada recently announced a decision to establish a 12-mile fishing zone, and the United Kingdom has renounced certain fisheries treaties apparently as a first move toward abandoning the 3-mile limit for fisheries.

"I hope this information will be helpful to you.

"Sincerely yours,

"FREDERICK G. DUTTON,
"Assistant Secretary."

"SUMMARY OF UNILATERAL CLAIMS TO EXTENDED TERRITORIAL SEAS OR EXCLUSIVE FISHING ZONES, SINCE THE 1960 UNITED NATIONS CONFERENCE ON LAW OF THE SEA

"Albania: March 1, 1910, restricted innocent passage in a 10-mile territorial sea. Fishing jurisdiction claimed to 12 miles.

"Cameroon: June 23, 1962, claimed a 6-mile territorial sea.

"China: While the Republic of China recognizes the 3-nautical-mile territorial sea, Communist China claims a 12-mile territorial sea.

"Denmark: June 1, 1963, extended the fisheries limits for Greenland to 12 miles. A similar limit for the Faroes Islands will take effect March 12, 1964. Certain countries are exempted from the Greenland limits until May 31, 1973.

"Malagasy Republic: February 27, 1963, claimed a 12-mile territorial sea.

"Morocco: Extended fishing jurisdiction to 12 miles, except for the Strait of Gibraltar, for which such jurisdiction was extended to 6 miles.

"Norway: Extended fisheries jurisdiction to 6 miles on April 1, 1961, and to 12 miles on September 1, 1961.

"Senegal: June 21, 1961, claimed a 6-mile territorial sea, plus a 6-mile contiguous zone.

"Sudan: August 2, 1960, extended the territorial sea to 12 miles.

"Tunisia: July 26, 1962, extended the territorial sea to 6 miles with an additional 6 miles of fisheries jurisdiction for a portion of its coast from the Algerian border to Ras Kapoudia, and extended the territorial sea from there to the Libyan border to the 50-meter isobath line.

"Uruguay: February 21, 1963, claimed a 6-mile territorial sea plus a 6-mile contiguous zone for fishing and other purposes.

"EXHIBIT 3

"S. 1816

"A bill to conserve the offshore fishery resources of the United States and its Territories, and for other purposes

"Whereas for some years the Congress of the United States has viewed with great concern the inadequacy of present arrangements for the protection, conservation and rehabilitation of the fishery resources contiguous to the coasts of the United States of America and, in view of the potentially disturbing effect of this situation, has carefully studied the possibility of improving the jurisdictional basis for conservation and rehabilitation measures in this field; and

"Whereas such fishery resources have a special importance to coastal communities as a source of livelihood and to the Nation as an important food and industrial resource; and,

"Whereas the progressive development of new methods and techniques contributes to intensified fishing over wide sea areas and, in certain cases, seriously threatens fisheries with depletion; and

"Whereas there is urgent need to protect coastal fishery resources from destructive exploitation, having due regard to conditions peculiar to each region and situation and to the special rights and equities of the Coastal States; Now, therefore,

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Governor of any State or Territory alleges by a petition to the President of the United States that fishing by nationals of other nations in some or all of the coastal waters lying within 12 miles off the shores of such State or Territory is of such intensity or magnitude that the fishery resources in such waters are in danger of depletion, the President shall appoint a Fact Finding Board (hereinafter called "The Board") consisting of three persons, one of whom shall be a resident of such State or Territory.

"SEC. 2. The Board shall, within ninety days, investigate the allegations made by the Governor and report its findings of fact and recommendations for action to the President.

"SEC. 3. The President, on the basis of such report and recommendations and such other information as may be brought to his attention, may by Presidental proclamation, if he finds that the allegations are sustained by the facts:

"(a) Prohibit fishing in some or all of the coast1 waters lying up to twelve miles off the coast of such State by any person not a national of the United States of America; or

"(b) Establish conservation zones in the coastal waters lying up to twelve miles off the coast of such State or Territory, limit the amount and type of fishing which may be conducted in such conservation zones, and set forth when and by whom fishing may be conducted in such conservation zones.

"SEC. 4. Members of the Board shall be appointed without regard to the civil service and classification laws and shall receive compensation at the rate of $75 per day when engaged in carrying out their duties and shall, in addition, receive reimbursement for actual expenses incurred in the performance of such duties.

"EXHIBIT 4

"PROCLAMATION 2668—POLICY OF THE UNITED STATES WITH RESPECT TO COASTAL FISHERIES IN CERTAIN AREAS OF THE HIGH SEAS,[1] BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

"Whereas for some years the Government of the United States of America has viewed with concern the inadequacy of present arrangements for the protection and perpetuation of the fishery resources contiguous to its coasts, and in view of the potentially disturbing effect of this situation, has carefully studied the possibility of improving the jurisdictional basis for conservation measures and international cooperation in this field; and

"Whereas such fishery resources have a special importance to coastal communities as a source of livelihood and to the Nation as a food and industrial resource; and

"Whereas the progressive development of new methods and techniques contributes to intensified fishing over wide sea areas and in certain cases seriously threatens fisheries with depletion; and

"Whereas there is an urgent need to protect coastal fishery resources from destructive exploitation, having due regard to conditions peculiar to each region and situation and to the special rights and equities of the coastal State and of any other State which may have established a legitimate interest therein:

"Now, therefore, I Harry S. Truman, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to coastal fisheries in certain areas of the high seas:

"In view of the pressing need for conservation and protection of fishery resources, the Government of the United States regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale. Where such activities have been or shall hereafter be developed and maintained by its nationals alone, the United States regards it as proper to establish explicitly bounded conservation zones in which fishing activities shall be subject to the regulation and control of the United States. Where such activities have been or shall hereafter be legitimately developed and maintained jointly by nationals of the United States and nationals of other states, explicitly bounded conservation zones may be established under agreements between the United States and such other states; and all fishing activities in such zones shall be subject to regulation and control as provided in such agreements. The right of any state to establish conservation zones off its shores in accordance with the above principles is conceded, provided that corresponding recognition is given to any fishing interests of nationals of the United States which may exist in such areas. The character as high seas of the areas in which such conservation zones are established and the right of the free and unimpeded navigation are in no way thus affected.

"In witness whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

"Done at the city of Washington this 28th day of September, in the year of our Lord nineteen hundred and forty-five, and of the Independence of the United States of America the one hundred and seventieth.

"[SEAL]

"HARRY S. TRUMAN.

"By the President:

"DEAN ACHESON,
"Acting Secretary of State.

"[F.R. Doc. 45–18175; Filed, Oct. 1, 1945; 11:11 a.m.]"

"EXECUTIVE ORDER 9633—RESERVING AND PLACING CERTAIN RESOURCES OF THE CONTINENTAL SHELF UNDER THE CONTROLS AND JURISDICTION OF THE SECRETARY OF THE INTERIOR

"By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that the natural resources of the subsoil and seabed of the Continental Shelf beneath the high seas but contiguous to the coasts of the United States declared this day by proclamation[1] to appertain to the United States and to be subject to the jurisdiction and control, be and they are hereby reserved, set aside, and placed under the jurisdiction and control of the Secretary of the Interior for administrative purposes, pending the enactment of legislation in regard thereto. Neither this

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[1] See Executive Order No. 9634.

[1] See Proclamation 2667, supra.

order nor the aforesaid proclamation shall be deemed to affect the determination by legislation or judicial decree of any issues between the United States and the several States, relating to the ownership or control of the subsoil and seabed of the Continental Shelf within or outside of the 3-mile limit.

"HARRY S. TRUMAN.

"THE WHITE HOUSE, *September 28, 1945.*

"[F.R. Doc. 45–18132; Filed, Sept. 28, 1945; 2:25 p.m.]"

"EXECUTIVE ORDER 9634—PROVIDING FOR THE ESTABLISHMENT OF FISHERY CONSERVATION ZONES

"By virtue of and pursuant to the authority vested in me as President of the United States, it is hereby ordered that the Secretary of State and the Secretary of the Interior shall from time to time jointly recommend the establishment by Executive orders of fishery conservation zones in areas of the high seas contiguous to the coasts of the United States, pursuant to the proclamation entitled "Policy of the United States With Respect to Coastal Fisheries in Certain Areas of the High Seas," this day signed by me, and said Secretaries shall in each case recommend provisions to be incorporated in such orders relating to the administration, regulation, and control of the fishery resources of and fishing activities in such zones, pursuant to authority of law heretofore or hereafter provided.

"HARRY S. TRUMAN.

"THE WHITE HOUSE, *September 28, 1945;*

"[F.R. Doc. 45–18133; Filed Sept. 28, 1945; 2:25 p.m.]"

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 192. An act for the relief of M. Sgt. Benjamin A. Canini, U.S. Army;

S. 219. An act for the relief of Bernard W. Flynn, Jr.;

S. 280. An act for the relief of Etsuko Matsuo McClellan;

S. 752. An act for the relief of Janos Kardos;

S. 1003. An act for the relief of the Middlesex Concrete Products & Excavating Corp.;

S. 1326. An act to provide for the conveyance of certain mineral interests of the United States in property in South Carolina to the record owners of the surface of that property; and

S. 1643. An act to amend the act entitled "An act for the relief of the estate of Gregory J. Kessenich," approved October 2, 1962 (76 Stat. 1368).

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 1518) for the relief of Barbara Theresa Lazarus.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 82. An act to amend the Merchant Marine Act, 1936, in order to provide for the reimbursement of certain vessel construction expenses;

H.R. 1135. An act to designate the dam being constructed and the reservoir to be formed on the Des Moines River, Iowa, as the Red Rock Dam and Lake Red Rock;

H.R. 1696. An act defining the interest of local public agencies in water reservoirs constructed by the Government which have been financed partially by such agencies;

H.R. 2671. An act authorizing construction of a bank protection project on the Guyandot River at Barboursville, W. Va.;

H.R. 2977. An act to authorize the sale of certain lands of the Cheyenne River Sioux Tribe;

H.R. 3198. An act to promote the economic and social development of the Trust Territory of the Pacific Islands, and for other purposes;

H.R. 5179. An act to authorize the Postmaster General to enter into agreements for the transportation of mail by passenger common carriers by motor vehicle, and for other purposes;

H.R. 5478. An act authorizing a survey of the Frio River in the vicinity of Three Rivers, Tex., in the interest of flood control and allied purposes;

H.R. 5623. An act to amend the provisions of title 14, United States Code, relating to the appointment, promotion, separation, and retirement of officers of the Coast Guard, and for other purposes;

H.R. 6138. An act to amend section 753(b) of title 28, United States Code, to provide for the recording of proceedings in the U.S. district courts by means of electronic sound recording as well as by shorthand or mechanical means;

H.R. 6481. An act to permit the Government of Guam to authorize a public authority to undertake urban renewal and housing activities;

H.R. 6923. An act authorizing a survey of Cedar Bayou, Tex., in the interest of flood control and allied purposes;

H.R. 6997. An act to provide for a comprehensive, long-range, and coordinated national program in oceanography, and for other purposes;

H.R. 7219. An act to amend sections 3288 and 3289 of title 18, United States Code, relating to reindictment after dismissal of a defective indictment;

H.R. 7594. An act to designate the McGee Bend Dam and Reservoir on the Angelina River, Tex., as the Sam Rayburn Dam and Reservoir; and

H.J. Res. 192. Joint resolution relating to the validity of certain rice acreage allotments for 1962 and prior crop years.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated:

H.R. 82. An act to amend the Merchant Marine Act, 1936, in order to provide for the reimbursement of certain vessel construction expenses;

H.R. 5623. An act to amend the provisions of title 14, United States Code, relating to the appointment, promotion, separation, and retirement of officers of the Coast Guard, and for other purposes; and

H.R. 6997. An act to provide for a comprehensive, long-range, and coordinated national program in oceanography, and for other purposes; to the Committee on Commerce.

H.R. 1135. An act to designate the dam being constructed and the reservoir to be formed on the Des Moines River, Iowa, as the Red Rock Dam and Lake Red Rock;

H.R. 1696. An act defining the interest of local public agencies in water reservoirs constructed by the Government which have been financed partially by such agencies;

H.R. 2671. An act authorizing construction of a bank protection project on the Guyandot River at Barboursville, W. Va.;

H.R. 5478. An act authorizing a survey of the Frio River in the vicinity of Three Rivers, Tex., in the interest of flood control and allied purposes;

H.R. 6923. An act authorizing a survey of Cedar Bayou, Tex., in the interest of flood control and allied purposes; and

H.R. 7594. An act to designate the McGee Bend Dam and Reservoir on the Angelina River, Tex., as the Sam Rayburn Dam and Reservoir; to the Committee on Public Works.

H.R. 2977. An act to authorize the sale of certain lands of the Cheyenne River Sioux Tribe;

H.R. 3198. An act to promote the economic and social development of the trust territory of the Pacific Islands, and for other purposes; and

H.R. 6481. An act to permit the government of Guam to authorize a public authority to undertake urban renewal and housing activities; to the Committee on Interior and Insular Affairs.

H.R. 5179. An act to authorize the Postmaster General to enter into agreements for the transportation of mail by passenger common carriers by motor vehicle, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 6138. An act to amend section 753(b) of title 28, United States Code, to provide for the recording of proceedings in the U.S. district courts by means of electronic sound recording as well as by shorthand or mechanical means; and

H.R. 7219. An act to amend sections 3288 and 3289 of title 18, United States Code, relating to reindictment after dismissal of a defective indictment; to the Committee on the Judiciary.

H.J. Res. 192. Joint resolution relating to the validity of certain rice acreage allotments for 1962 and prior crop years; to the Committee on Agriculture and Forestry.

UNIFORMED SERVICES PAY ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 5555) to amend title 37, United States Code, to increase the rates of basic pay for members of the uniformed services, and for other purposes.

Mr. CANNON. Mr. President, having held the floor for more than an hour, in the hope of beginning debate on Calendar No. 363, House bill 5555, the military pay bill, at this time I ask unanimous consent that I may ask for a quorum call, without losing my right to the floor, to put Senators on notice that the Senate is proceeding to consider H.R. 5555, a bill to increase the rates of basic pay for members of the uniformed services, which affects about 2.6 million of our military personnel.

The PRESIDING OFFICER. Is there objection?

Mr. KUCHEL. Mr. President, reserving the right to object—and I shall not object—there are two or three questions I would like to ask the Senator with respect to the provisions of the bill which was reported from the committee. I can ask him those questions either now or following the quorum call, in order to make a little legislative history.

Mr. CANNON. If the Senator will wait until after I have completed my statement, I will appreciate it. I have a statement which covers all the changes the Senate amendments encompass. Then we can go into any specific questions the Senator may have.

Mr. KUCHEL. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator

from Nevada? The Chair hears none, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. INOUYE in the chair). Without objection, it is so ordered.

PURPOSE OF THE BILL

Mr. CANNON. Mr. President, the purposes of the proposed military pay legislation, which will involve an additional annual cost of approximately $1,227 million, are threefold: First, to improve the attraction and retention of service members for career military service by providing increased basic pay with the larger percentage increases at points of retention; second, to correct certain inequities in the military compensation system; and third, to provide as a permanent statutory matter an equitable basis for adjusting retired pay for members after retirement, based on cost-of-living increases applicable to all retired personnel.

PRELIMINARY REMARKS

UNANIMOUS REPORT

Mr. President, before discussing the details of the bill, I should like to make several preliminary observations.

First, this bill as reported received the unanimous approval of both the Subcommittee and the full Committee on Armed Services. I should like particularly to recognize the efforts of the senior Senator from Massachusetts [Mr. SALTONSTALL], who is unable to be here today because of his trip to Moscow in connection with the signing of the test ban treaty. As the ranking minority member of both the subcommittee and the full committee, his long experience and able assistance were instrumental in shaping the bill in its present form.

REVIEW OF MILITARY COMPENSATION

Except for the increase in quarters allowances enacted in 1962, military compensation has not been increased since 1958. In view of the increases received by civilian Government workers and by those in the civilian economy generally during this time period, military increases have not kept pace. It might be observed, however, that when the longer time period, commencing with 1952 is considered together with the increases in this bill, the overall increases compare favorably with the percentage increases authorized for civilian workers. Tables on this matter are set out in the appendix to the report.

The Department of Defense has stated that a procedure has been established within the Department for maintaining a continual review of the military compensation system and making such recommendations as may be necessary to the Congress.

The committee, as noted in the report, is glad to observe this new procedure. The Department of Defense and our military personnel may be sure that due consideration will be given to any recommendations that may be submitted. There should be no implication that the committee intends that any particular formula be established for increasing military pay. The principal purpose of compensation changes must be to attract and maintain a suitable career force by granting reasonable increases. In our complex military organization pay structure, the approach may be different from one pay bill to the next depending on the circumstances and problems involved.

MILITARY RETENTION PROBLEM

OFFICER RETENTION PROBLEM

Mr. President, the critical officer retention problem now confronting the military forces results from the inadequate number of junior officers who are seeking a career status beyond the period of their initial obligated service. In order to maintain the present required force levels, from 11,000 to 13,000 officers must be retained in all the services annually beyond the points when they have completed their obligated service. Under existing conditions, the services must accept most of those who apply, with the result that only a minimum level of quality control can be maintained.

ENLISTED RETENTION PROBLEM

In the enlisted area, the most critical retention problem is the retaining of enlisted men in essential skills beyond the period of their initial service. In some of the critical skill areas, the Department of Defense would desire that the career ratio, that is, those serving beyond their initial term of enlistment, be about 60 percent. These ratios actually average about 40 percent. The cost of technical training is now about $1 billion a year in the Department of Defense. An increase in the retention of these critical skills should, therefore, serve to reduce the cost and increase efficiency by raising the experience level.

I should observe, Mr. President, that the Congress in 1958 authorized a system of enlisted proficiency pay under which the Department of Defense at its discretion could grant additional compensation up to $150 a month in order to meet the critical shortage. As of the present time, proficiency pay is granted only in the amounts of $30 and $60 per month. The Department of Defense has advised that plans are being considered for increasing these rates up to $100 a month. It should be observed, therefore, that in addition to the increases in basic pay authorized under this bill, the Department of Defense presently has legislative authority to grant additional increases to meet the critical skills retention problem.

DISCUSSION OF DETAILS OF BILL AS AMENDED

Mr. President, we now come to the basic question of how the bill attempts to carry out the threefold purposes I have enumerated. As a part of my discussion of the principal features of the bill, I will include the major amendments recommended by the Senate committee.

INCREASES IN BASIC PAY

INCREASES FOR CERTAIN GRADES WITH UNDER 2 YEARS OF SERVICE

Mr. President, military personnel with less than 2 years of service are those who are filling some sort of obligated service. The basic pay for the under-2-year group in all grades has not been increased since 1952, when a 4-percent increase was enacted. The House bill provided for no increase in any of these grades in the under-2-year bracket. The Senate committee feels an increase is justified for certain grades and recommends an increase of about 5 percent for the E–4 and E–5, and from 8.9 percent to 12.5 percent for commissioned officers. The approximate increases would be as follows:

For the E–4, a $7 monthly increase for a total basic pay of $129.

For the E–5, an $8 monthly increase for a total basic pay of $153.

For the O–1, second lieutenant, a $20 monthly increase for a total basic pay of $242.

For the O–2, first lieutenant, a $30 monthly increase, for a monthly basic pay of $289.

For the O–3, captain a $40 monthly increase for a total basic pay of $366.

For the O–4, major, of whom there are only 20 in all of the Armed Forces, a $50 monthly increase, for a total basic pay of $450.

The basic pay for the enlisted grades E–3 and below are not increased. Such personnel are generally in a training status during the initial 2-year period. Those in the higher enlisted grades for the most part are carrying out the duties for their rank, and, as we know, young officers are assigned to various duties either immediately, or following a short orientation course.

INCREASES OVER 2 YEARS OF SERVICE—OFFICERS

Mr. President, I now come to what is probably the most significant portion of this bill, which concerns the increases in basic pay for personnel with over 2 years of service. Generally, for officers the average increase is 18.8 percent with the average increase by rank as follows:

For general officers there is authorized a 5-percent increase and for the O–6, colonel grade, a 10-percent increase. It might be noted that in the 1958 pay act, the highest percentage increases authorized were for the general officer grades ranging from 29 to 33 percent, and for the O–6, colonel, a 20-percent increase in basic pay was enacted.

Continuing now with the increase in this bill, Mr. President, for the O–5, lieutenant colonel, a 14.5-percent increase is provided; for the O–4, major, 18 percent; for the O–3, captain, 23 percent; for the O–2, first lieutenant, 25.7 percent; and for the O–1, second lieutenant, 19 percent. These average dollar increases range from $60 to $110 a month.

Mr. President, the basic pay rates recommended by the Senate are increased in amounts of $10 to $30 monthly over that contained in the House bill for the O–1, second lieutenant, through the O–5, lieutenant colonel, with the larger increases placed at points of retention and normal service in these grades. These increases apply to officers in the normal promotion and career pattern.

As a result of the increases in basic pay contained in the bill, the total compensation structure for officers with typical years of service, including basic pay, quarters, and subsistence, will range from $4,800 a year for the second lieu-

tenant to $25,488 for the Chief of Staff. The inclusion of hazardous duty pay increases these amounts. These figures, contained on page 16 of the report for each grade, do not include the personal money allowances for those of three- and four-star rank.

INCREASES WITH OVER 2 YEARS OF SERVICE—ENLISTED

Mr. President, for enlisted personnel with over 2 years of service the average increase would be 15.5 percent, with the larger increases authorized at the points of retention and normal service. Except for the E–1 recruit, who only receives a 4.8-percent increase, the average increases by grade range from 11 percent to 18.2 percent. The increases vary within the grade, depending on the point of retention. For instance, an E–4 with over 4 years of service receives a 20.6-percent increase for a total of $205 monthly basic pay. An E–5 with over 6 years of service receives a 16.7-percent increase, for a total of $245 a month basic pay. An E–6, with over 16 years of service, receives a 16.1-percent increase for a total basic pay of $325 a month.

Of course, there are other elements of military compensation for which enlisted personnel may be authorized, including allowances for quarters, subsistence, and clothing, and if eligible, proficiency, hazardous duty, and certain other pays.

The bill as amended adds $5 per month to the various pay brackets over that recommended by the House, in the enlisted grades E–4 through E–7, affecting approximately 640,000 people.

Mr. President, for the enlisted grades E–4 through E–9 the enactment of the basic pay increases, together with the present allowances for quarters and subsistence, would provide an annual compensation structure ranging from $4,092 for the E–4, up to $7,732 for the E–9 for those with certain designated years of service. The exact amounts for each grade are set forth beginning on page 17 of the committee report.

INCREASE IN SPECIAL PAY FOR MEDICAL AND DENTAL OFFICERS

Mr. President, the Senate committee increased the special pay for medical and dental officers by $50 a month at the 6-year active duty point, from $200 to $250, and by $100 a month at the 10-year active duty point, from $250 to $350. The committee was of the opinion that the critical retention problem of military physicians and dentists justified this increase, in addition to the basic pay increases contained in the bill.

The Department of Defense, in supporting these additional amounts, noted that the resignation rate of officers who have completed 6 to 8 years of service has been increasing and now varies from 50 to 75 percent among the military services. The doctor draft law was enacted in 1950 and since that time the Department of Defense has been dependent on the impetus of this legislation for its input of physicians and dentists. Moreover, for the foreseeable future, the military departments will continue to be dependent on the doctor draft law for its physicians and dentists. These are the only professional groups which have been subject to continuous application of this act.

It is essential for the health of the Armed Forces that a certain portion of the medical service be composed of career officers in order to provide the experience and continuity necessary for adequate medical and dental care. Following the increase in special pay in 1956, the resignation rate dropped, although in recent years it has increased to its present rate.

The committee is of the opinion that the recommended increase should serve to make more attractive a military career for medical and dental officers and thereby serve to retain a greater number in active service.

HAZARDOUS DUTY PAY CHANGES

Mr. President, the bill corrects what might be considered certain inequities in the present military compensation system by proposing three amendments to the hazardous duty pay system.

First, entitlement to submarine pay would be broadened by providing that persons who are already qualified for submarine pay may continue to receive such pay when they are assigned as prospective crewmembers of a submarine being constructed, or when they are undergoing training prior to assignment to the nuclear or advanced types. What is happening today is that qualified submariners are losing their submarine pay during the transition period from the conventional submarines to the nuclear advanced types. The bill would permit this pay to be continued during these transition periods.

The second change relates to the existing provision which prohibits the receipt of more than one hazardous-duty pay, even though the person may be qualified, and also performs in more than one hazardous duty. The bill would permit not more than two pays where the member is qualified and performs both duties. We have personnel, for instance, who are trained to perform in both underwater demolition and parachute jumping. It should be emphasized that the bill would permit both pays only where the duties are actually being performed.

Third, those who perform inside a high-pressure chamber would be authorized to receive the hazardous-duty pay now authorized for those in the low-pressure chamber operation.

LANGUAGE IN REPORT ON INCREASED RANK FOR OFFICERS WITH ADVANCED TRAINING

Mr. President, I should like to observe that the report on page 22 contains language which urges the military departments to recognize advanced education in certain specialties for the purpose of commissioning officers in the fields allied with medicine and in other areas in the rank of first lieutenant rather than second lieutenant which is the rank currently being awarded. In the opinion of the committee, doctors of optometry and the other groups in specialties allied to medicine, as well as other specialties where advanced degrees have military application, should receive recognition for the required advanced education in terms of rank above that of second lieutenant. The military departments presently have the authority to award the temporary rank of first lieutenant for such newly commissioned officers.

FAMILY SEPARATION ALLOWANCE

The bill provides a new element for military compensation which will be known as the family separation allowance. In effect, military members in grades E–4—over 4 years of service—and above, if eligible, will be entitled to an allowance of $30 a month in addition to any other allowances or per diem they may be entitled to receive. The member must be separated from his dependents on a permanent change of station, or for at least 30 days, if he is on board a ship or on temporary duty and in all cases under circumstances where his dependents are not permitted to accompany him.

The reason for this allowance is because of the added household expenses caused by enforced separation of servicemen from their families when they are absent for any extended period of time. This results in an inequity as compared to our servicemen whose dependents are authorized to accompany them.

It is anticipated that about 100,000 enlisted men and 10,000 officers would be entitled to receive the additional allowance.

The committee amended the House bill by providing for a flat $30 a month rate for this allowance. The House formula would have provided a minimum $30 rate and not to exceed one-third of the quarters allowance without dependents for the member of the rank concerned. The Department of Defense urged the flat $30 rate, which will be much simpler to administer. Furthermore, the great majority of military members would only receive the flat $30 sum in any case.

NEW CONCEPT FOR FOREIGN DUTY

Mr. President, the Senate committee recommends a new concept for the payment of foreign-duty pay which overcomes the deficiency in the present system, which makes no distinction between locations. Existing law now authorizes sea and foreign duty pay ranging from $8 to $22.50 a month, depending on the grade concerned, for members who are on sea duty or on duty outside the United States or in Hawaii or in Alaska.

The House amended existing law by deleting the State of Hawaii as one of the eligible locations for foreign-duty pay.

The Senate committee adopts a new approach which makes all foreign duty pay outside the contiguous 48 States and the District of Columbia permissive. Under Presidential regulations the Secretary of Defense will determine the locations eligible for such pay. The amendment itself does not specify the basis for this determination. It is intended, however, that the Secretary will take into account such factors as undesirable climate, lack of normal community facilities, and the accessibility of the location generally. Under this general concept it would not appear, for instance, that an enlisted member in London, Paris, or Bermuda would qualify. On the other hand, someone on duty in the Antarctic or South Vietnam would obviously qualify.

Mr. President, I should like to observe enlisted men who receive sea pay or who receive foreign duty pay if found eligible under the new criteria would also be entitled to receive the family separation allowance of $30 a month, which I have previously discussed, if they are also separated from their families and are otherwise qualified for this separation allowance.

RETIRED PAY PROVISIONS

Mr. President, I now wish to discuss the manner in which the bill affects retired pay of the various groups involved.

There are several individuals retired under special acts of Congress, all of whom are receiving slightly more than $20,000 a year in retired pay. The bill as passed by the House provides no increase for these persons and no change is made by the Senate bill. All other members presently retired will receive at least a 5-percent increase. In addition, those retired prior to 1958 and receiving pay under the current pay laws will be permitted to receive either a 5-percent increase or recompute their retired pay under the 1958 pay scales, whichever is greater. The specific groups involved are as follows:

FIVE-PERCENT INCREASE FOR THOSE RECEIVING PAY UNDER LAWS IN EFFECT PRIOR TO 1949

Mr. President, there are approximately 33,000 persons retired prior to 1949 who continue to receive retired pay under the laws in effect prior to the Career Compensation Act, which was enacted in 1949. In order to reflect the increase in the cost of living since June 1958 the bill authorizes a flat 5-percent increase for this category of persons. This group, I might point out, received a 6-percent increase in 1955 and a 6-percent increase in 1958.

GROUP RETIRED AFTER JUNE 1, 1958, AND PRIOR TO EFFECTIVE DATE OF BILL

Mr. President, the bill also provides that those persons retired since June 1, 1958, and prior to the effective date of the bill would receive a 5-percent increase which reflects the increase in the cost of living since the enactment of the 1958 pay legislation.

Mr. KUCHEL. Mr. President, will the distinguished Senator from Nevada permit an interruption?

Mr. CANNON. If the Senator from California will permit, I should like to complete my statement; then I shall be happy to discuss any of the items independently.

Mr. KUCHEL. I thank the Senator.

APPROPRIATIONS FOR THE DEPARTMENT OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 5888) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1964, and for other purposes.

Mr. CANNON. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside, and that the Senate resume the consideration of H.R. 5555, the Uniformed Services Pay Act of 1963.

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

UNIFORMED SERVICES PAY ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 5555) to amend title 37, United States Code, to increase the rates of basic pay for members of the uniformed services, and for other purposes.

RECOMPUTATION OR 5 PERCENT, WHICHEVER IS GREATER, FOR THOSE RETIRED PRIOR TO JUNE 1, 1958, AND RECEIVING PAY UNDER THE CAREER COMPENSATION ACT OF 1949

Mr. CANNON. Mr. President, I shall now discuss the increases authorized for persons retired prior to June 1, 1958, who are receiving retired pay under the rates of the Career Compensation Act of 1949. The bill provides that this category of personnel will be entitled to a 5-percent increase or they may recompute their retired pay under the payscales enacted in 1958 where a greater retired pay would result. The percentage increases for this group will range from 5 to 39 percent over their present retired pay, with the larger increases accruing to those retiring in the higher officer grades, that is, lieutenant colonel, O–5, through general and former chiefs of staff, O–10. As a result of the increases authorized in the bill, the total annual retired pay would range in typical cases from $6,276 for lieutenant colonel, O–5, to $16,872 for the former Chief of Staff, O–10.

As the Senate may recall, the 1958 Military Pay Act adopted a cost-of-living philosophy for retired pay increases. This legislation provided a 6-percent cost-of-living increase for all those retired, except for those of three or four-star rank, who received 16 and 26 percent increases, respectively in their retired pay. If recomputation had been continued under the 1958 legislation, the large increases would have accrued to those retired in the higher ranks, but with little or, in some cases, no increases for those retired in the lower ranks. This result would have occurred because of the substantial increases in the 1958 act in basic pay authorized for the active forces for those in the higher ranks and because of certain changes in the pay system which cut off longevity increases in the lower pay brackets. This bill continues the cost-of-living philosophy of the 1958 act, by authorizing the minimum 5 percent increase for those who were retired before June 1, 1958. At the same time, Mr. President, the bill authorizes recomputation under the 1958 pay scales for those who would have received increased retired pay had they been permitted to recompute under the 1958 scales. The argument has been made that customarily Congress permitted recomputation in the past, and that sufficient notice was not given in 1958 with respect to the change to the cost-of-living system. The bill, therefore, authorizes recomputation as a transition provision to the statutory cost-of-living system which I shall discuss momentarily.

The point I should like to emphasize, Mr. President, is that with this transition alternative, it is intended that the recomputation method be ended once and for all, and that all increases hereafter be under the automatic cost-of-living system which the bill elsewhere establishes.

The bill as passed by the House would have granted recomputation under the 1958 scales, plus 5 percent of the recomputed sum for the group involved. The committee amended this approach, so as to provide for recomputation or 5 percent, whichever is greater. As I have indicated, under the Senate committee version, this group would receive from 5 to 39 percent over present retired pay. Furthermore, when the increases granted in 1958 are considered, the combined increases range from 11 to 74 percent. The committee was of the opinion that these increases are amply sufficient to meet the objectives of recomputation for the pre-1958 group.

NEW COST-OF-LIVING SYSTEM

Mr. President, the bill establishes a new concept for increasing retired pay subsequent to retirement. Under the language of this provision, the increases would be granted administratively, without the necessity of future legislation by Congress.

Whenever the cost of living, as reflected by the Consumer Price Index, advances annually at least 3 percent, the Secretary of Defense will adjust the retired pay of all personnel accordingly, to the nearest one-tenth of 1 percent. All retirees would therefore receive the same percentage increases.

Mr. President, the cost-of-living system is the most equitable means of dealing with retired pay increases, since it insures that all retired persons will be assured equal percentage increases. The principal purpose of military pay legislation must be to meet the needs of the Active Forces, which may necessitate varying increases for those on the active list, in order to meet the personnel problems in this complex military age. Under the circumstances, the most equitable means of assuring proper increases for all on the retired list is the cost-of-living system established in this bill.

Mr. President, implicit in the cost-of-living approach is the premise that a person's retired pay will initially be computed on the rates of pay in effect when he is initially retired, with subsequent adjustments based on cost-of-living increases. We shall, therefore, have people of the same rank and service with different rates of pay. For instance, we already have different rates for some retired prior to 1949, for those retired before 1958, for those retired after 1958, and for those who will retire under the 1963 rates.

MINOR FEATURES

Mr. President, my remarks have dealt with the principal features of the bill, as well as with a number of the changes recommended by the Senate committee. I shall not take the time of the Senate

to discuss in detail the other features of the amended bill, which are covered in detail in the report.

One item which should be mentioned is the deletion by the Senate committee of the increases in subsistence allowances recommended by the House. Upon the recommendation of the Department of Defense, the committee deleted all the increases in subsistence allowances, pending a further study by the Department of Defense of the whole system of subsistence. Aside from the matter of increases, there are certain inherent problems in the present subsistence system. The Department plans to complete this report next year, and this may well result in legislative recommendations to the Congress on the matter of changes in the subsistence allowances.

OBSERVATION ON OTHER MATTERS RELATING TO RETENTION

Mr. President, I should like to point out that adequate military compensation is vital, and must be reasonably increased from time to time in the interest of maintaining our Armed Forces and in fairness to the men and women involved. At the same time, military pay as a single element will not maintain our Armed Forces at their highest quality. Our Armed Forces today are large, and constitute the most complex operation in their history. This state of affairs makes for the greatest challenge in proper personal management. I should like to mention several problems which are matters of a continuing challenge.

First, there is the necessity to give our young officers ample responsibility for their rank, in order to enable them to make a full contribution in accordance with their talents.

Second, we should make sure that those in the middle ranks are given full responsibility for their grade, and that promotions are awarded for the prime purpose of increased responsibility, not for increased pay.

Third, Mr. President, there is the matter of early retirement. Today, in many cases, the services are losing officers at the peak of their ability and experience, with officers retiring after between 20 and 30 years of service. The prospect of retirement in their late forties and early fifties is causing concern among many of our career officers.

Mr. President, I mention these items merely to indicate that military pay is only one of the important elements for the retention of career men and women in our Armed Forces.

ADEQUACY OF THE BILL

Mr. President, the adequacy of any pay legislation, military or otherwise, is always a matter of judgment. There will always be some who will feel that whatever increase is granted is not sufficient.

The point I wish to emphasize is that in the opinion of the committee this bill, with its increases in basic pay and other changes, should meet the objective of attracting and retaining career personnel in sufficient numbers and quality for our forces.

Mr. President, the need for this legislation is urgent, and I urge its prompt passage by the Senate.

Mr. President, at this point I offer an amendment which is purely technical in nature; it would correct a printing error. On page 32, in line 15, it would strike out "section" and insert "station".

The PRESIDING OFFICER (Mr. KENNEDY in the chair). The amendment of the Senator from Nevada will be stated.

The LEGISLATIVE CLERK. On page 32, in line 15, after the word "that," it is proposed to strike out "section" and insert "station".

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McGOVERN. Will the Senator yield?

Mr. CANNON. I yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, on May 17 of this year I took the floor to ask for strong support of a military pay bill that would give our men and women in the armed services a fair return for their vital contribution to the Nation's security.

In my remarks, I pointed out that since 1952 military pay has gone up only 16.2 percent while civilian pay for comparable jobs has gone up an average of 42.7 percent. This figure included civil service pay which will have risen 39.8 percent by 1964. While we may never reach the ideal of complete comparability between civilian and military pay, I said, we are not dealing fairly with our service people if we fail to try to narrow the gap as much as possible.

I am very glad, Mr. President, that the Committee on Armed Services is in agreement with many of the suggestions I made on May 17. I am delighted to note that those with less than 2 years' service will be given a pay increase and that additional pay increases for certain enlisted grades with over 2 years' service are provided. I have long felt that we would well afford to be more considerate of our senior enlisted men, and I know, too, how important it is to offer compensation that is adequate to attract new members of the armed services. If we are ever to get away from compulsory service in peacetime, it can come only through offering sufficient pay to make voluntary service more attractive.

On last Friday I called the attention of the Senate to the enormous sums of money we are spending on additions to our nuclear "overkill" capacity. Would it not be wise to divert at least a small fraction of this weapons procurement budget to more adequate compensation for our servicemen? After all, the effectiveness of weapons is limited in no small part by the morale, skill, and experience of the men who use the weapons.

The Senate bill is much improved over H.R. 5555, but it is still not fully satisfactory. The pay bill should be made effective immediately upon its adoption rather than on October 1. In the case of civilian pay raises, the increase is usually made effective immediately or even retroactively. Why should we be less generous in our treatment of our soldiers, sailors, and airmen?

For these reasons, and in order to show good faith to our service men and women, I had intended to offer an amendment to this bill which would make its features effective on September 1, 1963, rather than October 1. After discussing my proposal with the floor managers of the bill, however, I have decided to withhold the amendment rather than jeopardize the expeditious passage of the pay bill.

Mr. GOLDWATER. Mr. President, will the distinguished Senator from Nevada yield?

Mr. CANNON. I yield.

Mr. GOLDWATER. I thank the distinguished chairman of the subcommittee and member of the full committee of which I am also a member. I wish to comment on his excellent handling of the hearings, and on the bill in general.

I call to the attention of the Senator from Nevada [Mr. CANNON] what I am about to say. During the meeting of the full committee yesterday, I offered an amendment that in effect would call for the establishment of an agency to continue study of the question. The language which I offered yesterday provided—

> The President shall direct such agency as he deems appropriate to prepare and submit to him annually a report which compares the rates of pay and allowances of members of the uniformed services with the rates of salary paid for comparable levels of work performed by employees in private enterprise and civilian employees of government as determined on the basis of the appropriate annual surveys conducted by the Bureau of Labor Statistics, and shall report annually to the Congress its comparison together with such recommendations for reduction of rates of pay and allowances of the members of the uniformed services as he deems advisable.

My purpose was to place the military pay in keeping with the pay in the Civil Service establishment. The amendment would require the same action now required by section 503 of Public Law 87–793, the Federal Salary Reform Act of 1962.

During the course of the debate yesterday in the committee it became quite evident that it would be virtually impossible to establish any comparability between military pay and pay for civilian jobs or governmental jobs. That problem has been recognized before when similar actions have been attempted. In his testimony, Mr. Paul stated:

> We will keep military compensation under continuing review, and we will make appropriate recommendations to the Congress in the future when we determine that military pay is not keeping abreast of the productivity changes in our general economy, as it most certainly should.

At this time I offer an amendment which would merely put the language of Mr. Paul into the bill. My amendment is as follows:

> The President shall direct such agency as he deems appropriate to keep military compensation under continuing review and to prepare and submit to him annually a report of its findings. The President, if he finds that military pay is not keeping abreast of productivity changes in our general economy, shall then recommend to the Congress such reductions of pay and allowances for

members of the uniformed services as he deems advisable.

I call to the attention of the Senator from Nevada the fact that I have removed from the amendment the language to which the committee objected yesterday. I send the amendment to the desk and ask that it be stated. I suggest that the Senator in charge of the bill, the Senator from Nevada [Mr. CANNON], might wish to accept the amendment, inasmuch as it merely repeats the language of Mr. Paul in his testimony. I have stricken out the language that yesterday was found not to be desirable.

The PRESIDING OFFICER. The amendment of the Senator from Arizona will be stated.

The LEGISLATIVE CLERK. It is proposed to add a new section as follows:

SEC. 15. Chapter 19 of title 37, United States Code, is amended as follows:

(1) The following new section is added after section 1007:

"SEC. 1008. Annual Review of Pay and Allowances.

"The President shall direct such agency as he deems appropriate to keep military compensation under continuing review and to prepare and submit to him annually a report of its findings. The President, if he finds that military pay is not keeping abreast of productivity changes in our general economy, shall then recommend to the Congress such revisions of rates of pay and allowances for members of the uniformed services as he deems advisable."

(2) The following new item is inserted in the analysis:

"1008. Annual Review of Pay and Allowances."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

Mr. CANNON. Mr. President, I yield to the Senator from California.

Mr. ENGLE. Mr. President, I thank my distinguished colleague for yielding. I take this occasion to pay my tribute to the distinguished Senator from Nevada for the remarkable job he has done on an extremely complicated question. I know that the pay situation with reference to all members of the armed services is an extremely complicated and difficult job. The junior Senator from Nevada took the chairmanship of the subcommittee and, in a very short time, he acquired a competence in that field which was truly astonishing.

For many years the Senator has been active in the Air Force Reserve. He is a brigadier general. From the beginning we have assumed that he had some competence in the field. But in the management of the bill during the hearings and before the full committee he displayed a competence and a grasp of the situation rarely seen in a Senate committee. It is a pleasure to work with the Senator in the subcommittee. Although the bill now before the Senate is not all that our military friends would like to have, I believe that the work which the Senator has performed on the bill will go a long way toward alleviating some of the complaints the military have justly made. I support the bill. I support the committee action. I commend the chairman of the subcommittee on a superb piece of work in relation to a very complicated and difficult field. I thank my friend for yielding.

Mr. CANNON. I thank the distinguished Senator from California for his kind remarks. I yield to the senior Senator from California.

Mr. KUCHEL. Mr. President, I thank my able friend. I have received a number of inquiries from retired military personnel who are now living in my State. They have raised a question as to the distinction which the bill requires between officer personnel retired prior to June 1, 1958 and those who have retired subsequently. My able friend has commented on the technical provisions in the bill which accomplish that distinction. Will the Senator indicate the reason why one group of personnel is treated differently for retirement purposes than another, based upon the date of June 1, 1958?

Mr. CANNON. Personnel who retire under different pay laws will be treated in different fashions. The bad feature of recomputation is that, under subsequent pay laws a man can eventually receive more retired pay than he ever received while on active duty.

The committee went into that question rather thoroughly. It has been considered in past years and by past administrations. Initially the Eisenhower administration rejected the principle of recomputation, and then changed position to approve it.

The Kennedy administration had the question under study for a while. Finally, with respect to the so-called 1958 group, the Kennedy administration recommended that because those people retired before 1958 had not been put on notice that recomputation would not be continued and that recomputation should be allowed at this time with reference to that group. That is what the bill now provides. The pre-1958 group will be able to recompute under the 1958 Pay Raise Act, as I indicated, and they will have the benefit of percentage increases from 5 to 39 percent over their present retired pay, the 39 percent being in the highest grade. This would mean, if added to the other raise which was granted to those people in 1958—namely, the 6-percent cost-of-living increase—that the combined percentage of increase would rise from 11 to 74 percent. With the percentage increase certain members of that group received in 1958, under the recomputation provided in the bill, they would receive a 74-percent increase in their retirement pay.

Mr. KUCHEL. The chairman and members of the committee, in my judgment, have performed a service in bringing the bill to the floor. Again recurring to the point which I attempted to make, I ask the Senator to assume that A and B have exactly the same length of service and exactly the same rank. One retired on May 31, 1958; the other on June 1, 1958. Is it not true that under the bill A and B would be treated differently with respect to the computation of their retirement pay?

Mr. CANNON. They are treated differently, up until the amendment to the bill is enacted. The amendment in the bill would permit a man who retired on May 30, 1958, to recompute under the 1958 pay scale.

There is one difference with respect to a person who retired before the 1958 act went into effect, as distinguished from a man who retired after the 1958 act went into effect. The man who retired after the 1958 act went into effect and served on duty under that pay scale would, under the terms of the bill, get a 5-percent increase in pay. The man who retired prior to the 1958 act receives a minimum 5-percent increase in pay.

This is a problem which will continue for any group under any pay bill.

The Department of Defense has now taken a firm position, as have the respective services, to the effect that they understand that the bill would put an end to the recomputation philosophy once and for all. From this time forward all retired personnel will get pay increases based on the cost of living as determined by the Consumer Price Index. Any time the cost of living goes up 3 percent or more in 1 year the increase granted will be to the nearest one-tenth of 1 percent.

Mr. KUCHEL. So, looking toward the future, retired personnel will be treated equally, except for those who remain alive who retired prior to June 1, 1958.

Mr. CANNON. No; the Senator is not correct. Every group retired under a different pay scale would be treated differently. Each would get the same percentage increase in retirement, but the retirement would be based on the salaries for the ranks in which they served, rather than the salaries for the ranks in which someone at a later time may have served. They would get the same percentage increases in retired pay.

Mr. KUCHEL. I assume, from the Senator's opening statement, that the committee unanimously adopted amendments with respect to this problem different from the language approved by the House of Representatives?

Mr. CANNON. The Senator is correct. The House committee rejected the recomputation theory and provided only a 5-percent recomputation figure based on the cost of living. On the floor the House legislated—as the Senate sometimes does—and inserted the recomputation figure and also left in the 5-percent increase.

The Senate committee unanimously changed the recomputation plus 5 percent to a formula of recomputation or 5 percent. Recomputation alone would have given little or no increase for many in the lower rank. A 5-percent increase was authorized to insure a cost-of-living increase. The committee felt that recomputation under the 1958 rates was sufficient to meet the objective and increase the pre-1958 above the cost-of-living increases.

Mr. KUCHEL. I wish to repeat, from this side of the aisle, that I believe the able chairman of the committee and all members of the committee have performed a very constructive service.

Since, apparently, the Senate will adopt a pay bill, long overdue for the Military Establishment, whose provisions on this point will be different from the

provisions written by the House, I assume that the problem will be available for consideration by a conference committee, so that a third look may be had at it.

Mr. CANNON. The Senator is correct—assuming that the House insists on a conference. I am hopeful that the House will accept the Senate version of the bill.

I point out to the distinguished Senator from California that pages 31 and 32 of the committee report give examples of dollar increases in retired pay for persons receiving retired pay under the Career Compensation Act of 1949, who retired prior to June 1, 1958.

For example, a general or an admiral received $12,180 under the 1958 act in total retired pay. Under the act in effect prior to 1958 he would receive $9,684. The terms of the Senate version of the bill would give him $16,872. He would get a 74-percent increase in pay compared to pre-1958 rates.

Mr. KUCHEL. Is that pattern laid down under the provisions of the bill now before the Senate with respect to retired officers in any of the lower grades?

Mr. CANNON. If the Senator will follow the chart shown on page 31, the information shows all officers and all enlisted grades and what they would get, as retired pay, under the Senate committee version of H.R. 5555 as well as under the House version. There are also shown the present retirement pay under the 1958 act and the retirement pay prior to June 1, 1958, for all the grades.

Mr. KUCHEL. I thank my friend very much. This is a highly technical subject. I know the members of the committee and the Members of the Senate generally very much desire to do equity and to make military service an honorable service which will attract and keep good fellow Americans who wish to serve their country in that fashion.

I hope, if there is a conference, that the apprehensions which have honorably been raised by retired officer personnel in my State once again will be given consideration.

After listening to the Senator explain the bill, I believe the committee has performed an excellent service.

Mr. CANNON. I also say, for the information of the Senator on the recomputation phase, that during the hearings we attempted to find out whether private industry had adopted any such formula of recomputation, so that a retired person could thereafter recompute his retired pay based on a salary he did not receive while he worked in the industry. We were not given specific examples by the witnesses who testified. Many witnesses testified that they knew of no such system in private industry basing the recomputation on a salary a man did not receive.

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

Mr. CANNON. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I wish to join Senators who have commended the Senator from Nevada for an excellent presentation. I have some general questions on the bill.

First I ask the distinguished Senator from Nevada how much enactment of the bill would cost. How much would be the annual cost to the Government of the pay increase, if the bill should be enacted?

Mr. CANNON. The cost of the bill, as it now stands, would be $1,227,330,000.

Mr. PROXMIRE. How does that figure compare with the cost increase provided by the House, before the Senate committee acted?

Mr. CANNON. This is approximately $5 million more than the total annual cost under the House bill, as passed by the House. It is slightly less than the initial proposal made by the Department of Defense.

The Department of Defense originally asked for some subsistence increases. After action was taken in the House, the Department changed its position with respect to subsistence allowances, on the representation that this matter was under study and that they hoped to have a recommendation for the Congress next year.

Mr. PROXMIRE. So the $5 million is a net figure. It is a net figure consisting of an increase by the Senate committee for the lower grades, with a decrease provided by the Senate committee in the subsistence allowances.

Mr. CANNON. The $5 million is a net increase figure. The Senate added approximately $141 million in the various basic pay areas to the provisions of the House bill. The Senate committee in turn pared $136.9 million, therefore making it a net increase of $5 million.

Mr. PROXMIRE. A reduction of $136.9 million in subsistence and a $141 million increase in the various pay grades?

Mr. CANNON. That was not entirely in the subsistence. Page 21 of the report sets forth the reductions and additions to the bill. The Senator will note that the subsistence item is one of the large items of reduction, approximately $83 million, but did not account for all the changes.

Mr. PROXMIRE. Was any consideration given by the committee, or could any consideration be given in a practical sense, to a pay increase calculated to make it more likely, if not certain, to eliminate the draft? I feel that there are many people—certainly in my State, and in all other States, I am sure—who are concerned with the philosophy of having a draft in peacetime. Of course, none of us wants this requirement imposed on our young men, but we all recognize it is necessary at the present time. I am wondering if any consideration was given to the possibility of having pay sufficiently adequate so that we no longer would have to have the draft, in view of the fact that the draft now requires the compulsory services of a relatively small number of Americans.

Mr. CANNON. Some consideration was given to it. These were the areas in which we tried to make some additions over the House bill, to make a service career more attractive, so that personnel might not only come into the service, but stay in after they were trained. The cost of training amounts to approximately $1 billion a year, according to the Department of Defense, so a substantial item is involved. If we can make a military career more desirable and retain military personnel for a longer period of time, obviously we can save money in the cost of training.

There is one bad feature, however. For the initial periods those personnel are strictly in training categories and receive a low rate of pay. There is not enough money to pay a higher salary to induce one to take the basic training; and yet many of the men are in the training category for the first 2 years. That is why the House adopted the philosophy of not giving an increase to anyone in the 2-years-and-under category. We did not completely agree with that. We increased it in the E–4 and E–5 categories.

Mr. PROXMIRE. I understand the Senator from Nevada to say there had been no increase since 1952—11 years.

Mr. CANNON. No. The Senator misunderstood me. In the lower grades there has been no increase since 1952 for the under-2-years man. The over 2-years man received——

Mr. PROXMIRE. I was referring only to the under-2-years man.

Mr. CANNON. That is correct. There has been no increase since 1952 for the under-2-years man. The cost of living for those men is borne by the Government, because the Government houses, feeds, and clothes them while they are in the training stage. The Government has borne the cost-of-living increase from 1952 to date. So we do not provide for an increased cost of living for men up to grade E–3, but for the E–4 and E–5 we have, because men in that category are assuming increased responsibility.

Mr. PROXMIRE. But the pay that the enlisted man gets recognizing the cost of eating, sleeping and clothing has been provided for, is eroded by the fact that since 1952 the cost of living has risen. So there is no encouragement for the enlisted man to reenlist, because his pay has been reduced greatly since 1952 in terms of what the money will buy. This is one reason why it is necessary to do what all of us would like to do, namely, raise Armed Forces pay sufficiently to eliminate the draft, if we possibly could.

Mr. CANNON. I remind the Senator that only the Army uses the draft.

Mr. PROXMIRE. We all recognize that the draft is necessary to get volunteers for the other services; and I recognize, as the Senator has so properly said, that only the Army uses the draft.

One further question in terms of the draft. There is still the doctor draft, as the Senator has pointed out. It seems to me the greatest injustice of all that doctors and dentists should be compelled to serve, and be the only professions singled out to be drafted into the Armed Forces. They have served patriotically and without much complaint. I wonder if an adequate adjustment was considered in that respect, recognizing the high skills and the great amount of training required, so as to provide pay which would permit elimination of the necessity for this profession to serve under the draft.

Mr. CANNON. The adjustment in 1956 helped the retention problem so far as doctors were concerned. However, since that time, the retention rate has continually decreased, to the point where it is at the present time. We have attempted to meet that problem in the proposed law at the 6-year active duty point, which is the critical point of retention. We have added an additional $50 a month. So if the bill in its present form were passed, doctors, in addition to basic pay and allowances, would receive an additional $250 a month. At the 10-year retention point they would get an additional $100 a month, going from $250 to $350 a month. So, in effect, they are being recognized for their service. Whether this pay is in an amount which will enable us to retain them, I do not know. This is the amount on which we received testimony. The Department of Health, Education, and Welfare officials testified as to this amount, and the Department of Defense also supported it.

Mr. PROXMIRE. So this was one of the reasons for the increase; and Senators feel that perhaps we may arrive at a situation in the foreseeable future where it may not be necessary to draft members of the medical and dental professions. There should be a realistic recognition of the skills required in those professions and the years needed to develop them.

Mr. CANNON. This was the amount the Department recommended.

Mr. PROXMIRE. How about comparability of military pay with other Government pay and pay in private industry? After all, $1.2 billion is an enormous cost. Was it based on comparability, in the first place, with corresponding Government grades; or, in the second place, with similar duties in civilian life?

Mr. CANNON. Comparability is an extremely difficult problem. We tried to consider it. We heard testimony from the Department of Defense. The problems of comparability were pointed out. The pay and allowances of a serviceman could not really be compared, because there was no real basis of comparison. It was stated, in effect, that the system now in effect for Government workers or for private industry could not really be compared to the military, because of the difficulty of comparison, no matter what basis was used. For example, if base pay is used as a comparability basis, there is one formula. If the pay and allowances basis is used, there is another formula. If the take-home pay basis is used, there is another formula, because the military personnel have a certain tax advantage. Tables attached to the report show the comparison of take-home pay in various grades.

There is also to be considered the insurance and retirement provisions. Military pay cannot be compared on the basis of retirement; and the civil service system and industrial employees have that benefit.

A moment ago I mentioned that a certain table was attached to the report. I am sorry. I have been informed that the table is not in the report. I ask unanimous consent that the table to which I have referred may be printed in the RECORD at this point. It shows the salaries of civilian employees, net take-home pay, pay and allowances of military personnel, and net take-home pay.

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

TABLE I

Salaries of Federal classified civilian employees, and net take-home pay

Pay grade	Present scale				1964 enacted				1964 proposed			
	Salary [1]		Net take home [2]		Salary [1]		Net take home [2]		Salary [1]		Net take home [2]	
	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly
GS–18	$20,000	$1,667	$14,296	$1,191	$20,000	$1,667	$14,296	$1,191	$25,500	$2,125	$17,445	$1,454
GS–17	18,628	1,552	13,451	1,121	18,628	1,552	13,451	1,121	23,386	1,949	16,285	1,357
GS–16	16,786	1,399	12,295	1,025	16,786	1,399	12,295	1,025	20,974	1,748	14,869	1,239
GS–15	15,580	1,298	11,535	961	17,042	1,420	12,451	1,038	18,706	1,559	13,501	1,125
GS–14	13,715	1,143	10,301	858	14,632	1,219	10,913	909	15,879	1,323	11,725	977
GS–13	11,930	994	9,109	759	12,639	1,053	9,581	798	13,573	1,131	10,205	850
GS–12	10,139	845	7,856	655	10,743	895	8,288	691	11,422	952	8,766	730
GS–11	8,564	714	6,715	560	9,004	750	7,033	586	9,477	790	7,382	615
GS–10	8,020	668	6,314	526	8,450	704	6,631	553	8,845	737	6,922	577
GS–9	7,345	612	5,823	485	7,715	643	6,096	508	8,040	670	6,329	527
GS–8	6,781	565	5,404	450	7,098	591	5,637	470	7,372	614	5,843	487
GS–7	6,137	511	4,918	410	6,424	535	5,135	428	6,630	552	5,290	441
GS–6	5,673	473	4,574	381	5,892	491	4,739	395	6,076	506	4,872	406
GS–5	5,128	427	4,163	347	5,253	438	4,257	355	5,418	451	4,382	365
GS–4	4,659	388	3,815	318	4,764	397	3,894	325	4,918	410	4,011	334
GS–3	4,278	356	3,527	294	4,342	362	3,576	298	4,441	370	3,650	304
GS–2	3,921	327	3,264	272	3,981	332	3,310	276	3,981	332	3,310	276
GS–1	3,690	307	3,090	257	3,750	312	3,135	261	3,750	312	3,135	261

[1] Average rate for the grade obtained by applying the pay scale to the number of "Employees of the Federal and District of Columbia Governments by Classification Act grade and step, all areas, June 30, 1961" (latest available).

[2] Net after deduction of Federal income tax, civil service retirement contributions at 6½ percent, group life insurance contributions at 25 cents per 2-week period per $1,000 of insurance, contribution to medical insurance at $12.50 per month. The Federal income tax has been calculated on the assumption of 3 dependents, joint return, and standard deduction.

Pay and allowances of military personnel, and net take-home pay

Pay grade	Present scale				H.R. 5555 (Senate revision)				Pay grade	Present scale				H.R. 5555 (Senate revision)			
	Pay and allowances [1]		Net take home [2]		Pay and allowances [1]		Net take home [2]			Pay and allowances [1]		Net take home [2]		Pay and allowances [1]		Net take home [2]	
	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly		Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly
C/S	$29,487	$2,457	$24,339	$2,028	$30,627	$2,552	$25,082	$2,090	W–3	$7,817	$651	$7,100	$592	$8,650	$721	$7,783	$649
O–10	25,587	2,132	21,153	1,763	26,587	2,216	21,813	1,818	W–2	6,778	565	6,228	519	7,524	627	6,839	570
O–9	21,487	1,791	17,808	1,484	22,387	1,866	18,443	1,537	W–1	6,041	503	5,624	469	6,632	553	6,088	507
O–8	19,187	1,599	16,049	1,337	20,028	1,669	16,642	1,387	E–9	6,963	580	6,341	528	7,722	643	6,964	580
O–7	17,087	1,424	14,531	1,211	17,807	1,484	15,064	1,255	E–8	6,161	513	5,700	475	6,878	573	6,272	523
O–6	13,711	1,143	11,924	994	14,818	1,235	12,755	1,063	E–7	5,679	473	5,309	442	6,110	509	5,647	471
O–5	11,516	960	10,161	847	12,834	1,069	11,207	934	E–6	4,942	412	4,719	393	5,419	452	5,093	424
O–4	9,711	809	8,685	724	11,037	920	9,744	812	E–5	4,333	361	4,229	352	4,738	395	4,546	379
O–3	7,870	656	7,136	595	9,167	764	8,208	684	E–4	3,608	301	3,536	295	3,948	329	3,864	322
O–2	6,107	509	5,702	475	7,096	591	6,487	541	E–3	3,001	250	2,951	246	3,147	262	3,092	258
O–1	4,857	405	4,697	391	5,231	436	4,990	416	E–2	2,708	226	2,669	222	2,734	228	2,694	224
W–4	8,949	746	8,061	672	10,110	842	9,001	750	E–1	2,614	218	2,578	215	2,619	218	2,583	215

[1] Includes basic pay, quarters, subsistence, and personal money allowance, assuming 3 dependents. The basic pay is the fiscal year 1964 budget average for the grade. The majority of enlisted personnel in the lower grades receive a lesser amount in quarters allowance than the amount used in this illustration.

[2] Net after deduction of Federal income tax and social security contribution. The Federal income tax has been calculated on the assumption of 3 dependents, joint return, and standard deduction.

Mr. PROXMIRE. The conclusion was, in general, that it is impossible to have overall comparability, although there are many positions in the Army, Navy, and Air Force which are comparable to positions in the civilian service. Is that correct?

I have reference to all kinds of technical positions. The major problem here is that of persuading people to stay in the Armed Forces when there are attractive pay possibilities in jobs on the outside. We lose to commercial industry technical specialists and many other highly trained personnel. Is that correct?

Mr. CANNON. The real problem is meeting the pay that is available on the outside, and retaining personnel on the basis of comparable pay in civilian industry and in the civil service. When we get into the problem of overtime, how do we compute that? For example, I am thinking of some people who are in the Strategic Air Command, or some people who are on sea duty, who are on a 24-hour duty basis in many instances. They do not receive overtime pay. It is an extremely difficult area to deal with in trying to arrive at a true comparability basis.

For that reason the committee opposed an amendment which was proposed to try to handle this subject on a strictly comparable basis, with a report and recommendation to Congress.

Because of the record, we feel that this was not a proper basis, and that we could rely on the assurances of the Department of Defense to keep the problem under continuous review and make a recommendation to Congress. Page 5 of the committee report goes into this subject.

Mr. PROXMIRE. I note that the top pay, as shown in the table on page 16 of the report, is $28,000 a year, for the Chief of Staff, $25,000 for generals, and so forth. This includes hazardous duty pay. Then we get down to the U.S. Senate level, that of a major general. I wonder why this table does not include pay for foreign duty. Is this not paid to a sufficient number so that this amount should be included, in order to make a fair and comprehensive comparison?

Mr. CANNON. Officers do not receive it and only some enlisted personnel. The hazardous duty pay is included in the right-hand column.

Mr. PROXMIRE. Yes.

Mr. CANNON. That shows the amount under hazardous duty pay. Some categories receive other pay.

Mr. PROXMIRE. This might not be the top salary, because in addition, there is foreign service pay. Is that correct?

Mr. CANNON. The officers the Senator is talking about do not receive foreign duty pay. This is the top pay, except that certain ranks, three- and four-star ranks, receive personal money allowances in addition to this figure.

Mr. PROXMIRE. That is not added in the table?

Mr. CANNON. No; it is not added there.

Mr. PROXMIRE. Under the bill the top pay would be $31,000; is that correct?

Mr. CANNON. The Senator is correct. It is approximately $31,000 for the top pay. That would be a member of the Joint Chiefs of Staff.

Mr. PROXMIRE. I have one final question. Before I ask it I would like to say again that the Senator's presentation has been a topflight job. Some agencies in Government have said that they will absorb their pay increases through greater efficiency, and that the pay increases would not be totally additional so far as the cost to the Government was concerned. I believe the Senator has already answered this question in part by saying that higher salaries would help reduce turnover. For instance, if turnover were cut from 60 percent to 40 percent with a $1 billion training cost there would be a $200 million saving. I wonder if it is possible that any further portion of the $1.2 billion pay increase could be absorbed.

Mr. CANNON. I do not believe there is any basis for trying to compute what the saving might be. The saving would be great; but when we talk about a billion dollars in training costs, we must remember that the training costs vary with the respective services, and with the type of training that is involved. I heard the testimony of some witnesses to the effect that we spend approximately $25,000 a year for training certain personnel. The training of a Strategic Air Command crew costs more than that. Once we train these people and cannot keep them, it is necessary to go through the process of training all over again.

Mr. PROXMIRE. I suppose the more we spend on any particular specialty for training the more likely it will be that the highly trained personnel will become attracted to industry, and therefore it is all the more necessary to provide adequate pay. Is that correct?

Mr. CANNON. I believe the Senator is correct. That is pointed up by the fact that in many cases those in the military service retire at an early age and go to work in private industry for extremely high salaries, because industry can bid for these people and give them the type of offer that we cannot give them on an individual basis.

Mr. PROXMIRE. I thank the Senator very much.

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

Mr. CANNON. I yield.

Mr. LAUSCHE. I wish to deal for the moment with the subject of comparability, recognizing the statement made by the Senator, that an intelligent comparison cannot be made because of the difference in the type of service performed.

I call the Senator's attention to the fact that in 1957 Civil Service employees of the Federal Government were given a 7-percent increase in pay; in 1960, a 4½-percent increase; in October 1962, a 7½-percent increase; and that as of January 1, 1964, the law, as now written, provides that there shall be another 4-percent increase. My question is, To what extent did the committee take into consideration the fact that since 1957 civil service employees have been given a 23-percent increase, whereas there has been only one pay increase, in 1958, to military personnel?

Mr. CANNON. We considered this problem; and we considered the overall increases which had been granted over a period of years in trying to arrive at a fair figure. If the Senator from Ohio will refer to page 58 of the report, he will see there the percentage increases in the basic pay as provided in the various bills, actual and proposed, from 1952 to 1964 inclusive, which cover the military and the civilian personnel. The Senator will find that in many instances the difference in the percentage increase is not as great as many people believe it is.

Mr. LAUSCHE. Is it not a fact that we cannot very well go to the people and say that in spite of the fact we have given four pay increases since 1958 to the civilian personnel, we will not give the military people a pay increase?

Mr. CANNON. The Senator is absolutely correct. It would be tragic if we were not to pass a pay increase bill. We are having a difficult time retaining these people at a time when we need to keep our Armed Forces in tiptop shape and maintain a strong military posture.

Mr. LAUSCHE. Would it not also follow that when we gave these four pay increases, we set in motion the force that compelled the granting of a pay increase to the military?

Mr. CANNON. It certainly had some effect, although I believe the military are entitled to pay increase in any event, based on history alone, the rising cost of living, the hardships that these people undergo, and the responsibility they assume. Based on all those factors, I believe their case can stand alone, irrespective of what we may have done for some other category. The Senator does make a point, however, which has some effect.

Mr. LAUSCHE. I am greatly impressed by the mastery the Senator from Nevada has over the various aspects of the problem under discussion today, many of which are intricate. Looking into the future, an agency has recommended that we raise the salaries of Supreme Court Justices to $75,000 a year; the salaries of Cabinet members to $50,000 a year; the salaries of Board and Commission members in the bracket from $30,000 to $50,000 a year; and the salaries of Members of Congress from the level of $22,500 to $35,000. If that should be done, what would happen to the whole structure of equality and equity in the paying of employees? I put that question now because it will arise. It will be our responsibility to recognize that it would set into motion new forces for new demands by both the civilian employees and the military.

Mr. CANNON. The Senator has properly emphasized what will happen if Congress takes such action.

Mr. LAUSCHE. I am afraid there will be serious efforts in that direction; and that is why I am speaking on the subject today.

Again, I commend the Senator from Nevada for his complete knowledge of the items that were discussed.

Mr. CANNON. I thank the Senator from Ohio for his kind remarks.

Mr. THURMOND. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. I yield to the Senator from South Carolina.

Mr. THURMOND. I commend the able and distinguished Senator from Nevada for the fine manner in which he has handled the military pay bill. I feel that the pay bill is entirely justified. There have been a number of pay raises for civilians in the Government, but this will be the first time in 5 years that Congress will have provided a pay raise for the military.

Our military personnel undergo a great many hazards and inconveniences. They are ordered to various parts of the world on short notice. Sometimes their families can accompany them; sometimes they cannot. I do not know of any segment of our population that loves its country more than does the military. I do not know of any segment of the population which is rendering greater service than our military personnel. They are patriotic, public spirited, fine citizens. In the communities in which they are located, they participate in activities for the upbuilding of the community and for the overall betterment of their particular section and the Nation.

I am proud that the subcommittee has recommended the increase, and I am glad that the Committee on Armed Services has approved the increase. Again I commend the distinguished Senator from Nevada for the outstanding work he has done.

Mr. CANNON. I thank the Senator from South Carolina.

Mr. LAUSCHE. Mr. President, will the Senator yield for half a minute?

Mr. CANNON. I yield to the Senator from Ohio.

Mr. LAUSCHE. I voted against the civilian pay increase because I was of the conviction that it would set into force certain pressures. However, although I voted against the civilian pay increase, I shall vote for the military pay increase. I would not be fair unless I did.

Mr. CANNON. I thank the Senator from Ohio for his support.

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

Mr. CANNON. I yield.

Mr. BARTLETT. I wish to add my voice to those of Senators who have already been heard in praise of the Senator from Nevada for his effective floor leadership of the intricate, complex bill which he has reported. I am sure we are all in his service for the manner in which he is presenting the bill in general, although not in every last particular, as I shall shortly seek to demonstrate.

At the outset, I believe the committee, in reaching what is described in the committee report as a "new concept of foreign duty pay," has evolved a better and more sensible arrangement for taking care of this subject, which is so important to so many military men in so many places.

Is my recollection correct that in the other body a determination was finally made to eliminate Hawaii as a foreign duty station?

Mr. CANNON. The Senator is correct.

Mr. BARTLETT. Am I correct in my interpretation of the bill now before the Senate, in saying that the committee has decided that wherever the foreign duty pay should prevail, the Secretary of Defense is charged with the responsibility of making the ultimate determination?

Mr. CANNON. The Senator is correct.

Mr. BARTLETT. I applaud that decision because it seems to me it is highly pertinent. As you know, foreign duty pay has been granted in Hawaii; and likewise in Alaska. I know personally that it was needed in Alaska because of the much higher cost of living there. But I know that comparisons between the cost of living in Alaska or anywhere else and Washington, D.C., for example, may change between one pay bill and another. For that reason, and for others, I think this solution is the very best that could have been reached. I congratulate the chairman of the subcommittee and the committee itself for presenting the bill to us.

Mr. President, there is one conclusion of the committee with which I am in basic disagreement, for reasons I shall seek to explain. I desire to offer the amendment which I send to the desk and ask that it be read.

Mr. CANNON. An amendment offered by the Senator from Arizona [Mr. GOLDWATER] is now pending.

The PRESIDING OFFICER. That amendment is now pending.

Mr. BARTLETT. Does the Senator wish me to withdraw my amendment for the time being?

Mr. CANNON. If the Senator from Arizona were present, I should like to have action taken on his amendment.

The PRESIDING OFFICER. The amendment proposed to be offered by the Senator from Alaska is not now in order.

Mr. BARTLETT. I withdraw it temporarily, at the request of the chairman of the subcommittee, and shall offer it under technically permissible circumstances, when the amendment of the Senator from Arizona shall have been disposed of.

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

Mr. CANNON. I yield.

Mr. JAVITS. I wish to express my support of the bill, both in respect of the active personnel duty and in respect of retirees, who have made known to my office the need of an adjustment of their compensation.

Like the Senator from Nevada, I have served long enough without having to depend upon military pay for a living. But for those who are aware of the sensitivity and gentility which are the lot of the officer cadre in the military service, which is generally accompanied by a complete inability to maintain high standards, the situation becomes a little shabby and a little unhappy. I think we have been remiss in bringing our military pay situation up to the real standard of quality living to which officers are entitled.

I have been through the command general staff school, and I know the degree of training and skill which would command in private industry two or three times, even, what the increased pay scale will now grant.

In the enlisted grades, there is yet another problem. It is often the problem of helping others to maintain themselves. Many young people come from families where earnings are very important. On the whole, I think our troops are extremely solicitous about their family responsibilities.

The image of the crap-shooting soldier is no longer prevalent. There are still some of them; and everyone loves to have a good time; but such an extreme image is out of date and is becoming obsolescent. Young people take seriously their responsibilities to their families and their own future. So the problem of the younger group, who represent the enlisted men, is again the problem of retention.

For all these reasons, I join with other Senators in expressing appreciation for the bill before the Senate and for the fine, dedicated work done by the committee, and especially the member of the committee who is in charge of the bill on the floor. I express my support of the bill.

Mr. CANNON. I thank the Senator from New York for his kind remarks.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

Mr. MANSFIELD. Mr. President, will the Senator from Nevada yield briefly?

Mr. CANNON. I yield.

Mr. MANSFIELD. Is it not true that in a certain sense, and a very practical sense, the passage of this bill could be considered as a move in the direction of economy, rather than a move in the area of increased costs?

Mr. CANNON. I believe it could certainly well be considered so. I hope that by means of the provisions of this bill, we shall be able to save a substantial amount of the training costs, as well as a substantial amount of the personnel replacement costs.

Mr. MANSFIELD. As an illustration, can the Senator from Nevada—who is doing an excellent job in managing this bill—state to the Senate how much, for example, it costs the Government to train a pilot in the Strategic Air Command? Perhaps the exact figure is not readily at hand; but is it not in the hundreds of thousands of dollars?

Mr. CANNON. It is in the hundreds of thousands of dollars, although the exact figure is a difficult one to pinpoint. But it has been reliably estimated that, when all the training costs incident to attaining proficiency in handling such aircraft are taken into consideration, the cost is in the neighborhood of $825,000 to train a B–52 pilot.

Mr. MANSFIELD. To train only one pilot?

Mr. CANNON. Yes; to train only one pilot.

Mr. MANSFIELD. And if because of the necessities of his family, he leaves the service, what happens to that investment by the Government?

Mr. CANNON. The investment certainly is lost, because the Government

must then proceed to train a replacement.

Mr. MANSFIELD. I thank the Senator from Nevada.

Mr. CANNON. Mr. President, much as I should like to accept the amendment of the Senator from Arizona to the committee amendment, I believe the record clearly shows that the Department is going to keep this problem under continuous review, and will report to Congress. That is shown by the testimony of Mr. Paul at the hearing; and it is referred to in the report. An additional uncertainty would be added by the Senator's amendment, through its use of the words "when productivity changes"—which in and of itself is not a definitive term. I hope that when and if the bill in its present form is passed by the Senate, the House can be induced to go along with the amendments we now have—and some exploratory action along that line has been taken—so it will not be necessary to have a conference, and therefore the bill in its present form can be enacted into law.

Therefore, Mr. President, much as I dislike to do so, I feel constrained to oppose this amendment to the committee amendment; and I hope the Senate will join me in rejecting it, on the ground that it is not needed and that the entire problem is covered by the present assurances of the Department.

Mr. GOLDWATER. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. I am happy to yield.

Mr. GOLDWATER. Mr. President, I wish I had the same confidence in the attitude of the Department of Defense that the Senator from Nevada has. All along we have had assurances that these matters were under constant surveillance; but not since 1958 have there been any general recommendations on the problem.

I find it difficult to understand why the military man is always the low man on the legislative totem pole. All other Government employees quite regularly receive pay increases. We know that every 2 years we can expect the postal employees to lobby for a pay increase; and because they have great political weight, they usually get what they want. We know that when other civil employees need increased pay, they also can rely upon their political strength, and are able to get what they ask.

But I point out that the armed services do not possess the unified political strength to be found in other branches of the Government.

Mr. President, the Senator from Nevada has objected to the use of the word "productivity." Yesterday, in the debate on this subject before the full committee, when he objected to use of the word "comparability," I deleted it, and, instead, took the language of the report; namely:

> There has been established in the Department of Defense a procedure whereby military compensation will be kept under continuing review and that prompt recommendations would be made to the Congress in the future whenever it is determined that military pay is not keeping abreast of productivity changes in our general economy.

Perhaps "productivity" was not the best word for Mr. Paul to use; but, as a businessman, I understand what he was referring to. In the market, pay is generally judged on the basis of productivity, I do not believe we can judge the military in this way, nor do I suggest that we do so. But when Mr. Paul says:

> Whenever it is determined that military pay is not keeping abreast of productivity changes—

All he is saying is, in effect, that military pay is not keeping up with the general increase found in the economy, because in the economy, when productivity changes upward, pay either goes up voluntarily or goes up by bargaining.

So I can find no basis for the objection of the distinguished chairman of the subcommittee, particularly, because I have changed my original amendment in order to make it coincide with the language to which he has referred. I think it would be much stronger if it were a part of the legislation, so that Congress could have a continuing responsibility in seeing to it that the Defense Department did, in effect, maintain a continuing study of the relationship of military pay to other governmental pay and to the general cost of living and to the pay across the country in the economy.

So I hope the Senator from Nevada will accept my amendment to the committee amendment, and thus avoid the necessity of having the Senate vote on my proposal. But I shall abide by whatever decision the Senate reaches.

Mr. CANNON. Mr. President, in answer to the Senator from Arizona, I point out that Congress has a continuing responsibility in this area. We have that responsibility regardless of whether such a provision is written into the law. I believe the representations made by the Department of Defense are certainly clear. We are mindful of what they are, and we are in a position to enforce them if the Department does not follow them out—although I believe it will do so.

Furthermore, in this case our concern is not solely with cost-of-living increases. The question is what pay must be given the trained personnel now in the services in order to keep them there. For example, from the time of enactment of the Pay Act to the present time there was a net increase of approximately 5 percent in the cost of living, up to the last date for which we have figures. Yet in this bill we are providing more than that percentage of pay increase for the military. I know that certainly that could be answered by the argument that they had not been adequately compensated theretofore; but the point is that we bear this responsibility, and we can decide what the correct pay increase is. All of us feel that certainly it should be more than the mere cost-of-living increase from 1958 to the present time—as evidenced by the fact that we encounter some rather high percentage increases in many of the areas where retention problems exist, and we do not adopt the same percentage increases straight across the board. Some receive a much higher percentage increase than others do. For example, we gave a 5-percent increase for the E–4's and E–5's with 2 years' service who end 2 years of service and are just completing their training status, and an 8.9 and a 12.5 percentage increase for commissioned officers in the lower grades. Yet, for example, under this bill a captain receives a 23 percent increase. If we were following the theory of basing the increase in pay along cost-of-living lines, certainly we would not be giving quite that much of a percentage increase. But we are trying to apply the big percentage and the big increase in the areas where needed.

Therefore, I respectfully urge the Senate to reject the Senator's amendment to the committee amendment, and to proceed on a basis on which I believe we can properly proceed in order to see to it that these people are adequately paid.

Mr. GOLDWATER. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. I am glad to yield.

Mr. GOLDWATER. Mr. President, I am not finding fault with the proposed increases. I think the committee has rendered outstanding service. However I think, as some others do, that in some areas the increases are inadequate; but I realize this is the best bill we are going to get.

My point is that it has been 5 years since we have given this matter attention. I realize it is the responsibility of Congress; but I would suggest to the Senator that as long ago as 1958, or possibly 1959, I introduced a bill to take care of recomputability.

Only within the past 2 weeks has there been any action of a substantive nature in the committee on that point. So we have not been taking care of our responsibilities. I have every confidence that the Senator from Nevada [Mr. CANNON] will see to it that Congress acts. But the problem is a continuing one. Retention is one of the problems faced by the military. In my travels around the military bases of our country I find that the feeling is not so much what members of the military are receiving today but what they will receive in their next grade, what they will receive on up the line, and, finally, what they will be able to look forward to in the way of retirement pay. I suggest that the addition of the amendment to the bill would relieve the minds of those in our country who worry that we in the Congress do not seem to care too much about the military because, after all, they are not a political force. They cannot come marching in here in their uniforms and demand that we do this, that, and the other thing. At the same time, we are subjected to that kind of beseechment on the part of organized bodies of Government employees. I cannot see that any harm would result to the proposed legislation by the addition of the amendment. I have every intention of voting for the bill. I have never opposed such a measure in the subcommittee or in the full committee. But I cannot follow the argument of the Senator that the amendment would be a hindrance either on the floor of the Senate or in the conference with the other body.

If we ever added up what it would cost adequately to pay the military and compared that cost to what it is costing us every year to replace members of the Armed Forces, we would find that the cost of paying the military an adequate sum and keeping them from worry would be far less than the cost of retraining.

Mr. President, I hope the Senator from Nevada will consider favorably the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona [Mr. GOLDWATER] to the committee amendment.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

Mr. BARTLETT. Mr. President, I return to the amendment arena, completely hopeful but not expecting that the chairman of the subcommittee will treat my amendment differently than he did that offered by the Senator from Arizona. I offer an amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Alaska will be stated.

The CHIEF CLERK. On page 18, below line 12, it is proposed to strike out "or Commandant of the Marine Corps," in footnote 1 of the pay table, and insert in lieu thereof "Commandant of the Marine Corps, or Commandant of the Coast Guard,".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska [Mr. BARTLETT] to the committee amendment.

Mr. BARTLETT. Mr. President, I express the hope that the Senator from Nevada will be willing to accept my amendment with a very brief explanation on my part. If he is not, I am, of course, prepared to discuss the amendment at greater length.

The amendment would give the Commandant of the Coast Guard, who is a full admiral, the same pay as the other service chiefs receive. Under the bill adopted by the corresponding committee in the other body and approved by the other body, the service chiefs of the strictly military services and the Commandant of the Coast Guard are placed on a pay plateau which is absolutely identical. The Senate committee altered that principle. My understanding is that the other chiefs—the other chiefs being those contrasted with the Coast Guard Commandant—now receive $1,875 a month, and it is proposed that they receive $1,970.

The Commandant of the Coast Guard now receives $1,700, and under the Senate version of the bill he would be increased in pay only 5 percent, or $85. Thus the difference between the pay of the service chiefs at this time and the Commandant of the Coast Guard would be increased rather than diminished. I scarcely know the present Commandant of the Coast Guard, Admiral Roland, although I am sure that he is a most competent man or he would not occupy the position that he does. He succeeds a long and distinguished line of predecessors.

The Coast Guard was founded before the start of the 19th century. The officers and men in that service are in military service in wartime. Then they are under the direction of the U.S. Navy. In peacetime they are under the Treasury. But the requirements imposed upon them in wartime or in peacetime are of a very considerable order of magnitude. The Coast Guard has discharged its responsibilities to this Nation magnificently. I suspect that it will be said that, after all, the Commandant of the Coast Guard does not have as many men under his command as does a service chief. That is true, for the record shows that at present there are 31,868 officers and men in the Coast Guard. So it is obviously true that that number is far short of the number of officers and men in the Marine Corps, the smallest of the services, numbering almost 190,000.

But I submit that pay ought not to be based entirely—and perhaps not at all—upon the number of men and officers under the command of a service chief, whether he be military, as such, or the Coast Guard. I suggest that the responsibilities which devolve upon a Commandant of the Coast Guard cannot be regarded as less than those of the service chiefs and are in fact not less, and that we as a Nation who have tended to neglect the Coast Guard should face what I regard as a necessity for upgrading this vital service.

This would be one small step in the process. The Coast Guard Fleet, as those who have studied it know, is outmoded and outdated. The Coast Guard is submitting a new plan for a modernized fleet. When that fleet is in being, the Coast Guard will be able to serve our Nation even better than it does now.

Mr. President, not every company in the United States—not every industry, not every business establishment—pays its chief executive officer according to the number of men on the company payroll. Other factors must be considered. In my judgment, it is so in the present case. I hope the Senator from Nevada will be willing to accept the amendment. The country will be the gainer if he does.

Mr. CANNON. Mr. President, I reluctantly rise to oppose the amendment of the Senator from Alaska. He has made several points that I believe should be answered. One is that the Commandant of the Coast Guard would not receive as much of an increase as would the members of the Joint Chiefs.

I point out that he would get the same percentage increase. He would get a 5-percent increase, the same as the Joint Chiefs of Staff would get. That is all they would get.

The Senator from Alaska pointed out that the Commandant does not have many men under his command. That is true. I know he has a high degree of responsibility. I point out that at present he gets the same basic pay and subsistence and quarters allowances as a four-star general.

There are only five officers who get the additional basic pay, and those were specified in the 1958 Pay Act. They are the Chairman of the Joint Chiefs of Staff and the members of the Joint Chiefs of Staff. The Commandant of the Coast Guard is not a member of the Joint Chiefs of Staff.

As the Senator correctly says, the Commandant has approximately 32,000 men under his command. Let us look at some others who might well be in the same category, if we were to act on that basis.

First is the commander of NATO. Certainly that is an extremely responsible assignment. He has many more men under his command than does the Commandant of the Coast Guard. Yet he gets the same O–10 basic pay, quarters, subsistence as the Commandant of the Coast Guard.

Another is the commander of the U.S. Army in Europe, who has many more men under his command than does the Commandant of the Coast Guard.

Also the corps commanders, who are four-star officers.

The commander of the U.S. forces in Korea gets exactly the same basic pay, quarters and subsistence allowance as the Commandant of the Coast Guard, yet he has many more men under his command. He certainly has a high degree of responsibility.

There are fleet commanders—the commanders of the Atlantic and Pacific Fleets—who get the same basic pay and quarters and subsistence allowances. There are many more men under their command. Certainly they have a high degree of responsibility.

Finally, there is the commanding general of the Strategic Air Command. I am sure that no one would claim he does not have a high degree of responsibility. Yet, as a four-star officer, he gets exactly the same basic pay and quarters and subsistence allowances as does the Commandant of the Coast Guard. In addition, he has approximately 232,000 men under his command. They are his responsibility. That number exceeds the 32,000 in the Coast Guard.

I point out, in opposing the amendment, that Congress saw fit for a specific purpose to grant some additional pay to the Chairman and the Members of the Joint Chiefs of Staff. The Commandant of the Coast Guard is not in that category. Therefore I must oppose the amendment, based on the pay of members of the Joint Chiefs of Staff, unless consideration is given to all the others who occupy four-star positions or positions of like responsibility.

In closing, I point out that all these officers occupy responsible positions. They are to be given a 5-percent increase under the terms of the bill. The Commandant of the Coast Guard will get a 5-percent increase, from $1,700 a month to $1,785 a month in basic pay; for a total pay and allowances figure of $28,471 a year, or $5,000 more than the pay of the distinguished Senator from Alaska.

I respectfully urge the Senate to reject the amendment.

Mr. BARTLETT. Mr. President, if the Senator will permit me to reply for one moment, I should not care, in any case, to denigrate the jobs thrust upon

the Army, Air Force, and Navy commanders whom the Senator named. We all know the size and scope and importance of those assignments. In my opinion, at least, there is one essential difference between those men and the Commandant of the Coast Guard, and that difference is that he is the head of an entire service with worldwide responsibility in these days. Whether the establishment is large or small is not especially the point, it seems to me.

I do not pretend to have read all through the 1958 hearings, for they were rather voluminous; but to the best of my ability I at least scanned through them, and nowhere did I see any reference to the pay of the service chiefs being based upon their presence on the Joint Chiefs of Staff. That may have been the case, but I did not see it noted.

From that fact I can only adduce that these officers were paid because of heading up their respective services.

In conclusion I can only say, in light of the opposition of the subcommittee chairman, my friend the Senator from Nevada, that I shall not, under the existing circumstances, press for a vote on my amendment.

This is one of the times when I trust my friends in the House of Representatives to be adamant on the proposition they endorsed when they sent the bill to the Senate; namely, that the Commandant of the Coast Guard should receive the same pay as the military service chiefs.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CANNON. Mr. President, I offer a technical amendment.

On page 19 there has been an error in the printing opposite the fifth printed line, the "O–2" category, with "over 22" years of service. The figure should be "$550" instead of "$650". I offer the amendment to correct the figure.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 19, in the line relating to pay grade "O–2" with "over 22 years of service computed under section 205", it is proposed to strike out "$650" and to insert in lieu thereof "$550".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada to the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

Mr. FONG. Mr. President, I offer my amendment No. 1, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 34, line 11, it is proposed to strike "or".

On page 34, between lines 11 and 12, it is proposed to insert the following:

(2) is entitled, while on duty in Hawaii, to; or

On page 34, line 12, it is proposed to strike out "(2)" and to insert in lieu thereof "(3)".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Hawaii [Mr. FONG] to the committee amendment.

Mr. FONG. Mr. President, at the outset I wish to congratulate the Armed Services Committee and the distinguished Senator from Nevada for bringing the bill to the Senate for a vote.

Earlier I appeared before the Special Subcommittee of the Senate Armed Services Committee and urged that the committee adopt the principle of comparability for military pay, a principle which I, as a member of the Committee on Post Office and Civil Service, approved, and which was adopted in last year's pay bill for Federal classified and postal personnel.

The Senate Armed Services Committee has not seen fit to adopt this principle in H.R. 5555, although Congress adopted the principle last year for our civil service employees.

Under present law, every year a survey is made by the Bureau of Labor Statistics to determine whether salaries paid to our Federal civil servants are comparable to that being paid in private industry.

Based on the BLS statistics the President is directed to present to the Congress a report and the Congress is supposed to enact a salary schedule for civil service employees in conformity with the findings of the BLS and the President's recommendations.

The Committee on Armed Services has not incorporated in this bill the principle of comparability which was given to our civil servants last year. However, I understand the Department of Defense has been requested by the Armed Services Committee to make periodic studies of military pay comparability with salaries of the Federal civil service and private industry and report back to the committee for appropriate action. I should like to compliment the committee for requesting such surveys. I hope when the survey results come before the Armed Services Committee in future years, the committee will follow the principle of comparability, and make the necessary military pay increases.

Although I regret that the principle of comparability has not been incorporated in this pay bill, still, at least, the bill does give increased pay to our military personnel, which is sorely needed.

So I will vote for the bill and urge my Senate colleagues to do likewise.

The amendment which I have proposed would restore to enlisted personnel from other parts of the United States now serving in Hawaii what they are now receiving in special pay commonly known as oversea pay. Under the present law, our enlisted men from the mainland United States, Alaska, and U.S. possessions serving in the State of Hawaii, the State of Alaska, Puerto Rico, the Virgin Islands, and other U.S. possessions, receive this special pay.

The present bill would delete the provision in existing law giving oversea pay in such a way that enlisted men from other parts of the United States serving in Hawaii would not receive the special pay.

I note that discretion has been placed in the hands of the Secretary of Defense to give this pay to servicemen serving in noncontinental U.S. areas if he feels such special pay should be given due to factors such as undesirable climate, lack of normal community facilities, and inaccessibility of location.

I note that the House Armed Services Committee in deleting this item, according to its report, said the climate in Hawaii is salubrious and that because of this very fine climate the oversea pay should not be given to enlisted men serving in Hawaii.

I should like to call to the attention of Members of Congress who claim that favorable climate is a reason for the elimination of oversea pay for Hawaii from the bill that one just cannot eat climate. The original law giving men in the service special pay for service outside the Continental United States was enacted in 1949.

In 1958 Congress reenacted these provisions when it gave increases in salaries to enlisted personnel.

Therefore, this matter was before the Congress in 1949 and in 1958, I have checked all the reports, and I have not been able to find the reasons for granting this special pay for personnel serving in Hawaii, Alaska, Puerto Rico, and the Virgin Islands, but I surmise that it was due to insularity and the high cost of living in these areas. The insularity and high costs of living are still with us.

The most recent cost-of-living survey taken by the State Department in the State of Hawaii, only last October shows that the overall cost of living in Hawaii is 15 percent higher than it is in the District of Columbia. Expenses for travel in Hawaii are 24 percent higher than in the District of Columbia. Housing expenses are likewise 24 percent higher. New cars, newspapers, and other such items, exceed the cost in the District of Columbia by 26 percent.

These costs must be paid by our military enlisted men in Hawaii because these items are part of everyday living.

We import into Hawaii two-thirds of our consumer goods and 60 percent of our edibles.

The special duty pay received by enlisted men serving in Hawaii would be only 10 percent of the base pay for a private, and only 5 percent of that of a master sergeant. Even if my proposal was enacted, it would be 5 to 10 percent below what is required for the cost of living when one compares it with that prevailing in Washington, D.C.

Because of these facts, Congress would be justified in retaining this special pay for enlisted men serving in Hawaii. The Defense Department has indicated that Alaska duty would qualify as a special pay duty post.

Therefore, I urge the adoption of my amendment to H.R. 5555 now before the Senate.

I am urging the adoption of my amendment on the ground that our enlisted men are now receiving this pay, and that the conditions which initially caused the enactment of this provision

by the Congress are still with us. The high cost of living is still with us in Hawaii and I feel that enlisted men serving in Hawaii deserve to have this special pay.

I move the adoption of the amendment.

Mr. CANNON. Mr. President, I rise reluctantly to oppose the amendment of my good friend the Senator from Hawaii. I must say that I was thinking of taking a trip to Hawaii, but after his nonchamber-of-commerce interpolation, I am not sure I would undertake the trip.

We have adopted in this bill an entirely new concept for foreign duty pay, which places discretion in the Department of Defense for a specific purpose, so that areas that are truly hardship areas can be classified as such and the personnel can draw pay for that type of service.

We have a saving provision in the bill which will assure that none of the enlisted personnel now living in Hawaii will be reduced in total pay, under the provisions of this bill, if Hawaii were determined to be a nonforeign duty station. We adopted that saving clause specifically so that no enlisted man would suffer by reason of a declaration of some foreign location to that of a nonforeign duty pay station.

I respectfully urge the Senate to oppose the amendment, because, if it passed, it destroys the entire basis of the new concept we have outlined in the bill for foreign duty pay, which we think is a good one, and one that the Secretary will implement in a proper manner. I am sure if he should determine Hawaii were a hardship station, foreign duty pay would be authorized. On the other hand, if he determined it was not determined to be a hardship station, that determination would come into play. I may point out that no other State of the contiguous 48 States can be interpreted as a hardship duty station or foreign duty station.

I urge the Senate to reject the amendment.

Mr. FONG. Mr. President, as I said, originally these provisions were incorporated into law in 1949 on the basis of the high cost of living in Hawaii. These provisions were reenacted in 1958. Although there is a flexibility in this bill giving the Secretary of Defense authority to grant special duty pay to personnel serving in places which are considered hardship stations, I note the Senate committee report applies it only to those places which have an undesirable climate, a lack of normal community facilities or inaccessible location.

I feel that the cost of living should be a very, very vital reason for such determination by the Secretary of Defense.

I should like to ask the distinguished Senator from Nevada whether or not he feels that the cost of living should be one of the reasons why we should give to personnel serving in outlying areas some consideration for foreign duty pay. We have a situation in Hawaii where the cost of living is approximately 15 percent higher than that experienced by the people of Washington, D.C. I am certain the present law on the subject was enacted originally because of these reasons which includes high cost of living.

Mr. CANNON. I merely wish to point out that the Secretary of Defense could use a station allowance at the present time, under the bill, if he so desired. Therefore, there is no tying of the hands of the Secretary if he determines that it is justified. I would like to point out that at the time of the enactment of the two previous bills relating to so-called foreign duty pay, to which the Senator has referred, Hawaii was not one of the States of the Union. It was in truth and in fact, and under the definitions in the bills, a foreign location.

I urge the Senate to reject the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Hawaii [Mr. FONG] to the committee amendment.

The amendment to the amendment was rejected.

Mr. FONG. I had another amendment, amendment No. 2. Inasmuch as my first amendment was defeated, I will not offer my second amendment.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

THE MILITARY PAY RAISE BILL IS NEEDED NOW

Mr. YARBOROUGH. Mr. President, today I believe we have a bill before us upon whose virtues all can readily agree. H.R. 5555 contains a multitude of virtues which affect many important areas of our society. This bill will improve the quality and efficiency of our defense effort at the same time that it strengthens the performance of our economy; and between all the lines of facts and figures there is a strong element of social justice.

MILITARY GAINS

In both the officer and enlisted ranks of our armed services we are faced with a critical problem of retaining personnel, especially skilled personnel. The committee report points out that the retention rate of officers in certain research and development specialties in the Air Force is only 7 percent; for the Army Engineers it is 18 percent. In the enlisted ranks the Defense Department desires that the ratio of those serving beyond their initial term of service be about 60 percent. The existing ratio is about 40 percent. To combat this problem the bill before us would increase the pay in the officer grades an average of 18.8 percent. For enlisted men the increases would average 16.6 percent. The purpose of such pay increases is to make military pay more competitive with civilian salaries so that the retention rate, especially among the skilled personnel, will increase.

To a great extent these pay increases will pay for themselves. As the career ratio among technical personnel increases, the cost of training such personnel decreases. Currently the Defense Department spends $1 billion per year on training costs. Furthermore the overall efficiency of our defense effort will be increased to the extent that we raise the experience level.

ECONOMIC GAINS

The $1,227,330,000 increase in military pay authorized by H.R. 5555 will have a sizable impact upon the performance of the American economy. The increased spending which will result from the fatter pay checks received by military personnel will multiply throughout the system. As we now have considerable slack in the economy, the increased demand will result in increased production, a lower unemployment rate, an increase in the rate of investment and thereby an increase in the growth rate.

This bill is of vital concern to the people of Texas. As of December 31, 1962, there were 177,000 Armed Forces personnel on duty in Texas. There are more military personnel in Texas than in any other State in the Union due to our varied terrain and favorable climate. In the last fiscal year a total of $727 million was spent in Texas by the Military Establishment; this sum does not include civilian contracts, which would greatly increase the total. The passage of this bill will mean millions of dollars a year in extra payroll for those 177,000 people who serve the military in the State of Texas.

Mr. President, after several years of below par performance the economy is more than ready for the boost that it will receive from measures such as H.R. 5555, acting along with more specifically economic measures, such as the tax bill.

SOCIAL JUSTICE

Mr. President, whether in peacetime or in war, the life of the soldier is not an easy one. In wartime the horrors are too obvious to warrant an accounting here. And in peacetime, although the terror is removed as a factor, many discomforts remain. The necessity to change residence frequently, days and sometimes years spent away from home and family, the frequently distasteful jobs which soldiers must do—these and many other factors do not render the life of the soldier any more attractive when compared to the relative ease of comparable areas of civilian life. Along with these discomforts the military man must depend upon the will of Congress to determine what remuneration he shall receive for his work. He cannot ask the boss for a raise, nor can he elect representatives to bargain collectively with the management of the enterprise. I doubt if there is one large business in America which has been able to get by for 5 years without raising the salary of its employees, but our soldiers and sailors have not had a pay increase throughout the preceding half decade. During this time, as throughout the history of this country, our men in uniform have served their country well. Our defense force is second to none in the world. Therefore it is high time that Congress acted on a bill such as H.R. 5555, a bill which increases the pay of active duty personnel by a total of $1,076,129,000.

Another long-overdue action which is accomplished by H.R. 5555 is to allow persons retired prior to June 1, 1958, and discriminated against in the Cordiner 1958 pay bill to receive either a 5-percent increase in pay or to recompute their re-

tire pay under the basic pay scales enacted in 1958. Basically these people who were dealt with so harshly by the Cordiner pay bill are the men who fought World War II. I have labored against this discrimination since 1957, and I am pleased to see this inequity at last being remedied while there is still time to do some good.

Mr. President, today the Federal Government is spending tens of billions of dollars on machines for national defense-aircraft, ships, tanks, and guns of every shape and size.

Every year we spend more dollars on machines, but we have not spent more dollars on our service personnel for the past 5 years. The lesson is obvious. This bill is badly needed and long overdue.

I commend the chairman of the subcommittee, the Senator from Nevada, and the other Senators on the committee, for the prompt and efficient manner in which this bill has been handled. The Senate should not delay the passage of H.R. 5555 another day.

Mr. President, I now offer my amendment, which applies to a limited number of people, who, in the vastness of the pay bill, were not provided for.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The LEGISLATIVE CLERK. On page 36, line 4, it is proposed to strike out "This Act" and insert in lieu thereof "This Act, except section 15,".

On page 36, below line 6, it is proposed to add the following:

BENEFICIARIES ELIGIBLE FOR ANNUITIES

SEC. 15. (a) Section 1437 of title 10, United States Code, is amended by striking out at the beginning of the first sentence thereof "Each annuity" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, each annuity".

(b) Such section is further amended by adding at the end thereof a new subsection as follows:

"(b) In any case in which a person—

"(1) has met all the requirements for the receipt of retired or retainer pay under chapter 67 of this title,

"(2) has made an election in favor of a beneficiary or beneficiaries under section 1434 of this title, and

"(3) dies prior to the date on which he would have first become eligible for the receipt of retired or retainer pay under such chapter 67,

an annuity shall be paid under this chapter to such beneficiary or beneficiaries, as the case may be, upon application filed by such beneficiary or beneficiaries as provided in regulations prescribed by the Secretary concerned, beginning as of the first day of the month in which such person would have been eligible to receive retired or retainer pay under chapter 67 of this title had he not died."

(c) The amendments made by subsections (a) and (b) of this section shall become effective as of October 1, 1953, but no benefits shall accrue to any person as a result of the enactment of such amendments prior to the date of enactment of this Act.

WIDOW'S PROTECTIVE AMENDMENT

Mr. YARBOROUGH. Mr. President, the amendment would end an inequity in our laws through which a very few widows of retired servicemen are deprived of their annuity even though the serviceman has completed every requirement for the annuity.

Under present law a member of the Armed Forces may elect to accept a reduced amount of retired or retainer pay in order to provide an annuity for his widow and/or his children who are under 18 years of age and who also meet other limiting conditions. This annuity may be 50, 25, or 12½ percent of the reduced amount of the man's retired pay.

In order for the intended beneficiary to qualify for the annuity the serviceman must have been in receipt of retired pay at the time of his death. For the convenience of Government bookkeeping an individual does not start receiving retired pay until the beginning of the month following the month in which he actually qualifies for retired pay. Thus if he dies between the date on which he qualifies for retired pay and the first of the following month, his intended beneficiary will receive no annuity. This results from a hiatus in the 1953 act.

This amendment will correct the unintended inequity by amending section 1437 of title 10, United States Code, so that in cases in which a serviceman has completed all the requirements for the receipt of retired pay but dies between the date on which he qualifies and the first of the following month, his properly designated beneficiaries will receive the annuity to which they are entitled.

This inequity in our laws was revealed to me personally through the recent death of an old and valued friend, Col. Robert D. Kirk. Colonel Kirk qualified for retired pay on November 16, 1962, having attained age 60 and completed sufficient qualifying service. However, such pay could not become effective until December 1, 1962, the first day of the month following the month age 60 was attained. Colonel Kirk died on November 22, 1962. Since he was not in receipt of retired pay prior to his death no retired pay accrued in his case. As a result, his widow will receive no annuity even though her husband had completed every requirement for the payment of such annuity at the time of his death. Had Colonel Kirk lived 9 more days until December 1, 1962, his widow would have received the annuity. It had been earned before his death.

After studying this case I decided that such a glaring inequity should be corrected by a change in the law rather than by offering a private bill which would affect only this particular case.

The Secretary of the Navy wrote a letter on this subject to former Speaker of the House Sam Rayburn, in which he said:

COST AND BUDGET DATA

There will be a slight cost which cannot be readily estimated. First, there will be an additional amount initially payable averaging one-half of one month's retired pay for each person when retired under section 1331 of title 10, United States Code. Secondly, there will be additional cost because of the few cases where survivors will now become eligible for the benefits under the Contingency Option Act. These costs can be absorbed by yearly budgets.

This amendment is limited to a very small group, and applies only when the person is fully entitled to receive retired pay and when he dies before the 1st of the next month. The widow or children of such a person certainly should not be left penniless.

I believe that it is proper that this amendment be offered at this time for two principal reasons: First, it is germane in that other similar adjustments are included in H.R. 5555, among them section 13, which is a savings provision for widows receiving dependency and indemnity compensation; and second, although the Defense Department has recommended similar legislation to previous Congresses, and may do so to this Congress, months have gone by while this limited class of widows remains without the annuity their husbands earned.

In view of the minor nature of the amendment there should be no controversy attached to correcting this inequity. It is a mistake to tie the qualification for annuities to receipt of retired pay in this manner, Mr. President, since the two do not have any necessary connection. The Government has decided that if a man serves the required type and amount of time he is entitled to certain benefits. It is unwise and unfair to deny him these benefits because of an essentially unrelated condition.

Mr. President, I ask unanimous consent that a telegram which I received from the Reserve Officers Association of the United States be printed in the RECORD at this point.

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

WASHINGTON, D.C.,
August 5, 1963.

HON. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.:

The Reserve Officers Association of the United States strongly supports your effort to correct an inequity that exists in the law governing the retirement of non-Regulars wherein the widow of the retiree who dies between the date that he legally was placed on the retired list and the date he receives his first paycheck is caused to forfeit her contingency option benefits altogether and without recourse. We fervently hope that the Senators will support you in your amendment to correct this glaring inequity.

REAR ADM. A. JACKSON, Jr.,
Acting Executive Director.

Mr. YARBOROUGH. Mr. President, since coming to the floor I have talked to staff personnel in the Senate—not the distinguished chairman of the subcommittee—who were under the impression that the amendment would cover a case in which a man retires at age 57, and dies between that time and the time he becomes 60. The amendment would not apply in such a situation. The amendment provides:

(b) in any case in which a person—

(1) has met all the requirements for the receipt of retired or retainer pay under chapter 67 of this title.

He must have been old enough; he must have served out his time. But because of this quirk in the law, his widow is barred. If he were over 60 years of age, had served 20 years or more, was retired, and had designated his wife or his children as annuitants before he died, but then did not live until the

first of the next month, the Government would say to the wife and children, "You are through. You do not get a cent of the money that the serviceman accumulated in his years of service in South Vietnam or West Berlin. You get nothing because he did not live until the first of the next month."

I do not believe we can allow such inequities to exist for another day.

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

Mr. YARBOROUGH. I yield.

Mr. ENGLE. How would the Senator answer this question? Assume that a man died 32 days after his retirement. Would his widow receive the annuity?

Mr. YARBOROUGH. His widow would receive the annuity. If he lived 32 days after retirement, he would have passed the first of the next month. The present law applies alike to Regulars and Reserves, privates and generals. If he retires and draws his first check the first of the following month, the law provides that his widow will receive his annuity, if he were drawing retirement pay.

Mr. ENGLE. The Senator has answered my question. I supported the Senator's proposed amendment in the subcommittee. I think it has much merit. When a man retires, and his death occurs between the time of his retirement and the first of the following month, it would be unfair to provide that his widow or his dependents should not participate in his pension. The Senator has adequately answered my question.

Mr. YARBOROUGH. If he lived until the 1st of next month, he would draw his retirement pay; and if he died after the 1st of next month, his widow or children would draw the annuity.

Mr. ENGLE. The Senator has made a good case for his amendment. I did not support the other amendment, which was somewhat broader, but I believe this is a good amendment, and I urge the chairman of the subcommittee to accept it.

Mr. YARBOROUGH. I thank the distinguished Senator from California for his contribution and his comments. I call attention to the fact that this proposal was presented to the subcommittee, so this is not the first time it has been brought up.

I thank the chairman of the subcommittee for his further consideration. The amendment applies to a very limited group of persons. The chairman has had the whole weight of the bill on his shoulders. Now that the other amendments, affecting more people and more money, have been disposed of, I hope that, on reconsideration, he will accept my amendment.

I cannot conceive of it disturbing any relationships between the two Houses. It is pointed out that the amendment is no more retroaction than is section 13 in the bill, and is properly germane to other provisions of the bill.

I appeal to the distinguished chairman of the subcommittee to accept the amendment. It applies to only a few people, and to a very limited group.

Mr. CANNON. Mr. President, I reluctantly oppose the amendment, but I feel that I must oppose it for several reasons. As the Senator stated, the amendment was considered by the subcommittee, along with another more liberal amendment. While I assure the Senator that I would be inclined to support his proposal in a separate bill, there are two or three reasons why I could not support it in this bill.

The first problem arises under the Contingency Option Act, a separate section of the code. Under this act, a Board of Actuaries has been established by law, and is charged with the responsibility of establishing rates for a self-sustaining program.

The basis of the argument with respect to rates is that the person must be drawing retirement pay at the time of his death. When a man dies before he receives his retirement pay, that is a very close situation.

But in addition to the fact that a Board of Actuaries is established, section 1443, chapter 73, title 10, to establish a sound actuarial basis for the administration of this program, would have us legislating specifically, and in a fashion which might affect the establishment of the rates by the Board.

There is one feature which is much more serious, to me, and that is the retroactive feature. The Senator's amendment proposes a retroactive date in 1953. The committee consistently took the position, both in subcommittee and in full committee, that it was opposed to retroactive provisions in the pay bill.

For example, the hostile fire pay provision in the bill, as it initially was proposed, made the retroactive date January 1, 1961. We opposed that provision on the ground that retroactive pay legislation generally is unsound.

The first problem is that if the provision is made retroactive, there is no legitimate reason for not making other provisions of the act retroactive. This would get us into the middle of that particular problem.

There is also the general principle that the date of entitlement to pay should be effective only from the effective date of the law.

We also considered the problem of elimination of the calendar year 1963 pay date. Using the same philosophy, we rejected an amendment to allow 1963 retirees payment as of the first of the calendar year, on the ground that it would be an undesirable precedent so far as the retroactive purposes of the law are concerned.

I hope the Senate will not now adopt an amendment that would undo the philosophy established in the bill by the subcommittee and the full committee, with respect to one feature of the retroactive revisions, and that this issue can be laid at rest once and for all.

I am sympathetic toward the amendment offered by the Senator from Texas. If he were to introduce his proposal as a separate bill to take care of this particular problem, I would support it. I have been assured by the chairman of the Committee on Armed Services that if the proposal were offered as a separate bill, he would set early hearings on it, so that it could be considered by the committee. But I respectfully urge the Senate not to break down a precedent that has been established in the law and subject Congress to an inconsistent position, so far as two other important features of the bill are concerned.

Mr. YARBOROUGH. Mr. President, the distinguished chairman of the subcommittee bases his case on retroactivity. If that argument were sound, the Senate could never correct the inequity. If we allowed retroactivity to a widow only in futura, she could be cut off without a cent if her husband died before the first of the following month, and she would have no recourse.

If the inequity could be remedied by a separate bill, it could be remedied by an amendment, because the bill amends sections of the same title that my amendment pertains to.

There is an amendment to section 1401. Mine would amend section 1437—amending the title and section. The Senator from Nevada says my amendment is not germane. But if there were a strict rule of germaneness, it would be germane under such a parliamentary rule. It would be germane under the parliamentary rules of any legislative body in the world. Although the Senate has no rule of germaneness, this amendment is germane both to the subject matter and under the present rules. Therefore, I see no reason why my amendment to the committee amendment should not be adopted.

Mr. ENGLE. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. I yield.

Mr. ENGLE. The distinguished Senator from Nevada said he would support the amendment if it was a separate bill. He has said, however, that it would create a precedent. However, I point out that a separate bill of this sort would create as much of a precedent as such an amendment to this bill would; that conclusion cannot be avoided.

Mr. YARBOROUGH. The Senator is exactly correct.

Mr. ENGLE. The question is whether this amendment is a good one or a bad one. I believe it is a good one. I do not believe a widow or dependent should be deprived of a pension for which the deceased person was fully qualified, merely because he died between the time he qualified and the time of the arrival of his first pension check.

So it is impossible to maintain with any degree of logic that a bill for this purpose should be supported, but that such an amendment should be rejected because it would establish a precedent.

Mr. YARBOROUGH. Mr. President, the Senator from California has well stated the situation in regard to this amendment.

I hope the Senate will adopt the amendment, in order to correct this gross injustice.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas to the committee amendment.

The amendment to the amendment was agreed to.

Mr. YARBOROUGH. Mr. President, I move that the vote by which the amend-

ment to the committee amendment was adopted be reconsidered.

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

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

The question is on agreeing to the motion to reconsider the vote by which the Yarborough amendment to the committee amendment was agreed to.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that I may withdraw my motion to reconsider.

The PRESIDING OFFICER. Without objection, the motion to reconsider is withdrawn.

Mr. YARBOROUGH. Mr. President, I now ask unanimous consent that the action taken by the Senate in adopting my amendment to the committee amendment be rescinded.

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

Mr. YARBOROUGH. Mr. President, I now ask unanimous consent that I may withdraw my amendment to the committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment to the committee amendment is withdrawn.

Mr. YARBOROUGH. Mr. President, will the distinguished Senator from Nevada yield for a question?

Mr. CANNON. I yield.

Mr. YARBOROUGH. Mr. President, I plan to introduce a separate bill on this subject, this week. I understand that it is agreed that the Armed Services Committee will set the bill for an early hearing and will press for an early hearing and report on it, so that the Senate may have an opportunity to vote on it, unencumbered by being tied to the main bill. Is that satisfactory to the Armed Services Committee?

Mr. CANNON. Yes. I have been assured by the distinguished chairman of the Armed Services Committee that if the Senator from Texas introduces a separate bill on this subject, he will set it for an early hearing.

Mr. YARBOROUGH. So that the Senate will have an opportunity to vote on these two matters separately, rather than to have them tied together at this time?

Mr. CANNON. The Senator is correct—so that the two matters will not be tied together at this time.

Mr. YARBOROUGH. I thank the Senator from Nevada for his clarification.

Mr. CANNON. I thank the Senator from Texas for withdrawing his amendment.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

If there be no further amendment to be proposed to the committee amendment, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question now is, Shall the bill pass?

Mr. RUSSELL. Mr. President, I feel that the yeas and nays should be ordered on the question of passage of the bill. Therefore, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Missouri [Mr. LONG], the Senator from Wyoming [Mr. MCGEE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Rhode Island [Mr. PELL], the Senator from Alabama [Mr. SPARKMAN], and the Senator from Mississippi [Mr. STENNIS] are absent on official business.

I further announce that the Senator from Indiana [Mr. BAYH] and the Senator from Washington [Mr. MAGNUSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. BAYH], the Senator from Connecticut [Mr. DODD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Missouri [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Wyoming [Mr. MCGEE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Rhode Island [Mr. PELL], the Senator from Alabama [Mr. SPARKMAN], the Senator from Mississippi [Mr. STENNIS], and the Senator from Arkansas [Mr. FULBRIGHT] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN] and the Senator from Massachusetts [Mr. SALTONSTALL] are absent on official business.

The Senator from Iowa [Mr. MILLER] is necessarily absent.

If present and voting, the Senator from Vermont [Mr. AIKEN], the Senator from Iowa [Mr. MILLER], and the Senator from Massachusetts [Mr. SALTONSTALL] would each vote "yea."

The result was announced—yeas 84, nays 0.

[No. 121 Leg.]

YEAS—84

Allott	Cannon	Edmondson
Anderson	Carlson	Ellender
Bartlett	Case	Engle
Beall	Church	Ervin
Bennett	Clark	Fong
Bible	Cooper	Goldwater
Boggs	Cotton	Gruening
Brewster	Curtis	Hart
Burdick	Dirksen	Hartke
Byrd, Va.	Dominick	Hayden
Byrd, W. Va.	Douglas	Hickenlooper
Hill	McClellan	Randolph
Holland	McGovern	Ribicoff
Hruska	McIntyre	Robertson
Inouye	McNamara	Russell
Jackson	Mechem	Scott
Javits	Metcalf	Simpson
Johnston	Monroney	Smathers
Jordan, N.C.	Morse	Smith
Jordan, Idaho	Morton	Symington
Keating	Moss	Talmadge
Kefauver	Mundt	Thurmond
Kennedy	Muskie	Tower
Kuchel	Nelson	Williams, N.J.
Lausche	Neuberger	Williams, Del.
Long, La.	Pearson	Yarborough
Mansfield	Prouty	Young, N. Dak.
McCarthy	Proxmire	Young, Ohio

NAYS—0

NOT VOTING—16

Aiken	Humphrey	Pell
Bayh	Long, Mo.	Saltonstall
Dodd	Magnuson	Sparkman
Eastland	McGee	Stennis
Fulbright	Miller	
Gore	Pastore	

So the bill (H.R. 5555) was passed.

U.S. RELEASE OF RESTRICTIONS AND RESERVATIONS ON CERTAIN REAL PROPERTY IN ARKANSAS

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 12, S. 812.

The PRESIDING OFFICER (Mr. MCGOVERN in the chair). The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 812) to provide for the release of restrictions and reservations on certain real property heretofore conveyed to the State of Arkansas by the United States of America.

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

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations, with an amendment, on page 2, line 2, after the word "pertain," to strike out "to the following described portion of such land:

"Part of the west half section 2 township 2 north range 12 west, described as follows: Starting at the northeast corner of said west half, thence west 180 feet, thence south 9 degrees 30 minutes west, 1,059.6 feet along the west line of property conveyed by the United States Government to the city of North Little Rock per deed recorded in deed record book 436, page 331, records of Pulaski County, Arkansas, to the point of beginning, said point being in the centerline of Vermont Avenue between Sixty-first and Sixty-second Streets; from the point of beginning so established continue south 9 degrees 30 minutes west along west line of North Little Rock property 686.81 feet, thence south 70 degrees 09 minutes west along a line 50 feet south of and parallel to the centerline of Sixty-first Street 282.57 feet, thence northwesterly along the centerline of New York Avenue on a curve to the left (chord north 34 degrees 52 minutes west 590.08 feet), thence north 40 degrees 11 minutes east 718.9 feet along the center-line of Sixty-second Street, thence south 44 degrees 05 minutes east 362.63 feet along Vermont Avenue to the point of beginning. The above described

property is that portion of block 10, Camp Joseph T. Robinson, Basic Infantry Replacement Training Center Expansion Area, lying west of North Little Rock property (North Little Rock Airport), containing 9.8 acres of land, more or less" and insert "to that parcel of land in Pulaski County, Arkansas, described in a lease-purchase agreement dated February 10, 1959, entered into between the Arkansas National Guard and the State board of education, State of Arkansas, containing nine and eight-tenths acres, more or less.'", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the provisions of section 2 of this Act the Secretary of the Army is authorized to convey, quitclaim, or release to the State of Arkansas, all rights, reservations, restrictions, and exceptions reserved by the United States in and over that part of Camp Joseph T. Robinson which was conveyed to the State of Arkansas by deed executed by the Secretary of the Army on August 25, 1950, pursuant to the Act approved June 30, 1950 (64 Stat. 310), insofar as these rights, reservations, restrictions, and exceptions pertain to that parcel of land in Pulaski County, Arkansas, described in a lease-purchase agreement dated February 10, 1959, entered into between the Arkansas National Guard and the State board of education, State of Arkansas, containing nine and eight-tenths acres, more or less.

SEC. 2. The first section of this Act shall take effect upon the payment by the State of Arkansas to the Secretary of the Army of the fair market value of the property interest authorized by that section to be conveyed, as such value is determined by the Secretary.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. MORSE. Mr. President, the Senator from Arkansas [Mr. MCCLELLAN] and I have arrived at a complete understanding, due to his usual wonderful cooperation in matters such as this. The Senator is in complete agreement with the amendment I now offer, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 3, beginning with line 10, it is proposed to strike out all through the period on line 14 and insert in lieu thereof the following:

SEC. 2. The first section of this Act shall take effect upon the payment by the State of Arkansas to the Secretary of the Army of the fair market value of the fee simple title of the property described therein (but not including any buildings or other permanent improvements placed on such property by the Arkansas State Board of Education), as such value is determined by the Secretary after appraisal.

Mr. MORSE. Mr. President, not only is this amendment acceptable to the Senator from Arkansas but also it is in line with the position taken by the Army. I thank the Senator from Arkansas very much for his cooperation. This amendment will, in effect, protect the principle of the Morse formula.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon.

The amendment was agreed to.

Mr. MCCLELLAN. Mr. President, I wish to say a few words on the bill.

The bill would authorize the conveyance of property to the State of Arkansas.

The Morse amendment, which has been agreed to, received no objection from me, for the reason that a similar provision is being applied to all similar cases. I felt that my State would be willing to conform, so long as this provision is applied to all property under similar circumstances, regardless of the public agency which may become the beneficiary.

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

Mr. MCCLELLAN. I yield.

Mr. MORSE. I repeat my thanks to the Senator from Arkansas. I wish to tell him that so long as I have been in the Senate, the attempt has been made to apply that principle.

Mr. MCCLELLAN. I have no objection to the formula. In many instances I would support it. There might be an exception, but so long as it is being observed, I have no objection in this instance. I think the authorities of the State of Arkansas are well satisfied with the arrangement.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 812) was ordered to be engrossed for a third reading, was read the third time, and passed.

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, if the majority leader will permit, I should like to ask about the program for tomorrow and perhaps for succeeding days this week.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN], it is the intention of the leadership, with his concurrence, to have the Senate consider Calendar No. 359, Senate Joint Resolution 33, granting consent for an extension of 4 years of the Interstate Compact to Conserve Oil and Gas; Calendar 360, Senate Joint Resolution 67, extending an invitation to the International Olympic Committee to hold the 1968 winter Olympic games in the United States; Calendar No. 361, Senate Joint Resolution 72, favoring the holding of the Olympic games in America in 1968; and Calendar No. 320, S. 1057, to promote the cause of criminal justice by providing for the representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States; all of which have been cleared by both sides; and then to lay before the Senate Calendar No. 358, H.R. 5888, the appropriation bill for the Departments of Labor, and Health, Education, and Welfare and related agencies for the fiscal year ending June 30, 1964, and for other purposes, on which there will be no votes tonight, but as to which opening statements will be made.

Following that, though not necessarily in sequence, depending upon developments, the Senate will consider Calendar No. 362, H.R. 7500 to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and administrative operations, and for other purposes; the Mexican farm labor bill, which was reported by the committee again today; and Calendar No. 357, S. 1321, to provide for a National Service Corps to strengthen community service programs in the United States.

I think that will bring us up to what there is on the calendar.

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

Mr. MANSFIELD. I yield.

Mr. PROXMIRE. Did the Senator from Wisconsin correctly understand that there will be no third reading of the appropriation bill for the Departments of Labor and Health, Education, and Welfare tonight?

Mr. MANSFIELD. The Senator is correct. There will be opening statements, but no votes.

Mr. PROXMIRE. Very good.

FOUR-YEAR EXTENSION OF INTERSTATE COMPACT TO CONSERVE OIL AND GAS

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 359, Senate Joint Resolution 33.

The PRESIDING OFFICER. The joint resolution will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A joint resolution (S.J. Res. 33) granting consent for an extension of 4 years of the interstate compact to conserve oil and gas.

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

The motion was agreed to; and the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Interior and Insular Affairs, with an amendment, at the top of page 17, to insert a new section, as follows:

SEC. 3. The right to alter, amend, or repeal the provisions of section 1 is hereby expressly reserved.

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to an extension and renewal for a period of four years from September 1, 1963, to September 1, 1967, of the Interstate Compact To Conserve Oil and Gas, which was signed in the city of Dallas, Texas, the 16th day of February 1935 by the representatives of Oklahoma, Texas, California, and New Mexico, and at the same time and place was signed by the representatives, as a recommendation for approval to the Governors and Legislatures of the States of Arkansas, Colorado, Illinois, Kansas, and Michigan, and which prior to August 27, 1935, was presented to and approved by the Legislatures and Governors of the States of New Mexico, Kansas, Okla-

homa, Illinois, Colorado, and Texas, and which so approved by the six States last above-named was deposited in the Department of State of the United States, and thereafter was consented to by the Congress in Public Resolution Numbered 64, Seventy-fourth Congress, approved August 27, 1935, for a period of two years, and thereafter was extended by the representatives of the compacting States and consented to by the Congress for successive periods, without interruption, the last extension being for the period from September 1, 1959, to September 1, 1963, consented to by Congress by Public Law Numbered 143, Eighty-sixth Congress, approved August 7, 1959. The agreement to extend and renew said compact for a period of four years from September 1, 1963, to September 1, 1967, duly executed by representatives of the States of Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, and Wyoming, has been deposited in the Department of State of the United States, and reads as follows:

"AN AGREEMENT TO EXTEND THE INTERSTATE COMPACT TO CONSERVE OIL AND GAS

"Whereas, on the 16th day of February, 1935, in the City of Dallas, Texas, there was executed 'An Interstate Compact To Conserve Oil and Gas' which was thereafter formally ratified and approved by the States of Oklahoma, Texas, New Mexico, Illinois, Colorado, and Kansas, the original of which is now on deposit with the Department of State of the United States, a true copy of which follows:

" 'INTERSTATE COMPACT TO CONSERVE OIL AND GAS

" 'Article I

" 'This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three of the States of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

" 'Article II

" 'The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

" 'Article III

" 'Each State bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

" '(a) The operation of any oil well with an inefficient gas-oil ratio.

" '(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.

" '(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

" '(d) The creation of unnecessary fire hazards.

" '(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

" '(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

" 'The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

" 'Article IV

" 'Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

" 'Article V

" 'It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

" 'Article VI

" 'Each State joining herein shall appoint one representative to a commission hereby constituted and designated as

THE INTERSTATE OIL COMPACT COMMISSION

the duty of which said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said commission deems beneficial it shall report its findings and recommendations to the several States for adoption or rejection.

" 'The Commission shall have power to recommend the co-ordination of the exercise of the police powers of the several States within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

" 'No action shall be taken by the Commission except: (1) by the affirmative votes of the majority of the whole number of the compacting States represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting States at said meeting, such interest to be determined as follows: such vote of each State shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting States during said period.

" 'Article VII

" 'No State by joining herein shall become financially obligated to any other State, nor shall the breach of the terms hereof by any State subject such State to financial responsibility to the other States joining herein.

" 'Article VIII

" 'This compact shall expire September 1, 1937. But any State joining herein may, upon sixty (60) days notice, withdraw herefrom.

" 'The representatives of the signatory States have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the Governor of each of the signatory states.

" 'This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing State may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.'

"Whereas, the said Interstate Compact to Conserve Oil and Gas has heretofore been duly renewed and extended with the consent of the Congress to September 1, 1963; and,

"Whereas, it is desired to renew and extend the said Interstate Compact to Conserve Oil and Gas for a period of four (4) years from September 1, 1963, to September 1, 1967:

"Now, therefore, this writing witnesseth:

"It is hereby agreed that the Compact entitled

" 'An Interstate Compact To Conserve Oil and Gas' executed in the City of Dallas, Texas, on the 16th day of February, 1935, and now on deposit with the Department of State of the United States, a correct copy of which appears above, be, and the same hereby is, extended for a period of four (4) years from September 1, 1963, its present date of expiration, to September 1, 1967. This agreement shall become effective when executed, ratified, and approved as provided in Article I of the original Compact.

"The signatory States have executed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States and a duly certified copy thereof shall be forwarded to the Governor of each of the signatory States. Any oil-producing state may become a party hereto by executing a counterpart of this agreement to be similarly deposited, certified, and ratified.

"Executed by the several undersigned states, at their several state capitols, through their proper officials on the dates as shown, as duly authorized by statutes and resolutions, subject to the limitations and qualifications of the acts of the respective State Legislatures.

"THE STATE OF ALABAMA

"By John Patterson, Governor

"Dated: 9–4–62

"Attest: BETTYE FRINK
"Secretary of State

" (SEAL)

"THE STATE OF ALASKA

"By William A. Egan, Governor

"Dated: 9–21–62

"Attest: HUGH J. WADE
"Secretary of State

" (SEAL)

"THE STATE OF ARIZONA

"By Paul J. Fannin, Governor

"Dated: 11–1–61

"Attest: WESLEY BOLIN
"Secretary of State

" (SEAL)

"THE STATE OF ARKANSAS

"By Orval E. Faubus, Governor

"Dated: 8–15–62

"Attest: NANCY J. HALL
"Secretary of State

" (SEAL)

"THE STATE OF COLORADO

"By Steve McNichols, Governor

"Dated:

"Attest: GEORGE J. BAKER
"Secretary of State

" (SEAL)

"THE STATE OF FLORIDA

"By Farris Bryant, Governor

"Dated: 5–28–62

"Attest: TOM ADAMS
"Secretary of State

" (SEAL)

"THE STATE OF ILLINOIS

"By Otto Kerner, Governor

"Dated: 12–12–61

"Attest: CHARLES F. CARPENTIER
"Secretary of State

" (SEAL)

"THE STATE OF INDIANA

"By Matthew E. Welsh, Governor

"Dated:

"Attest: CHARLES O. HENDRICKS
"Secretary of State

" (SEAL)

"THE STATE OF KANSAS

"By John Anderson, Jr., Governor

"Dated:

"Attest: PAUL R. SHANAHAN
"Secretary of State
LEONE M. POWERS
"Assistant Secretary of State

"(SEAL)

"THE STATE OF KENTUCKY

"By Bert Combs, Governor

"Dated: 11-30-61

"Attest: HENRY H. CARTER
"Secretary of State

"(SEAL)

"THE STATE OF LOUISIANA

"By Jimmie H. Davis, Governor

"Dated: 6-12-62

"Attest: WADE O. MARTIN, Jr.
"Secretary of State

"(SEAL)

"THE STATE OF MARYLAND

"By J. Millard Tawes, Governor

"Dated: 11-20-62

"Attest: LLOYD L. SIMPKINS
"Secretary of State

"(SEAL)

"THE STATE OF MICHIGAN

"By John B. Swainson, Governor

"Dated: 7-6-62

"Attest: JAMES M. HARE
"Secretary of State

"(SEAL)

"THE STATE OF MISSISSIPPI

"By Ross R. Barnett, Governor

"Dated:

"Attest: HEBER LADNER
"Secretary of State

"(SEAL)

"THE STATE OF MONTANA

"By Donald G. Nutter, Governor

"Dated: 1-18-62

"Attest: FRANK MURRAY
"Secretary of State

"(SEAL)

"THE STATE OF NEBRASKA

"By Frank B. Morrison, Governor

"Dated: 1-24-62

"Attest: FRANK MARSH
"Secretary of State

"(SEAL)

"THE STATE OF NEVADA

"By Grant Sawyer, Governor

"Dated: 4-25-62

"Attest: JOHN KOONTZ
"Secretary of State

"(SEAL)

"THE STATE OF NEW MEXICO

"By E. L. Mechem, Governor

"Dated: 10-23-61

"Attest: BETTY FIORINA
"Secretary of State

"(SEAL)

"THE STATE OF NEW YORK

"By Nelson A. Rockefeller, Governor

"Dated: 9-22-62

"Attest: CAROLINE K. SIMON
"Secretary of State

"(SEAL)

"THE STATE OF NORTH DAKOTA

"By William L. Guy, Governor

"Dated: 3-2-62

"Attest: BEN MEIER
"Secretary of State

"(SEAL)

"THE STATE OF OHIO

"By Michael V. Di Salle, Governor

"Dated 10-9-62

"Attest: TED W. BROWN
"Secretary of State

"(SEAL)

"THE STATE OF OKLAHOMA

"By J. Howard Edmondson, Governor

"Dated: 10-20-61

"Attest: WILLIAM N. CHRISTIAN
"Secretary of State

"(SEAL)

"THE STATE OF PENNSYLVANIA

"By David L. Lawrence, Governor

"Dated: 2-6-62

"Attest: E. JAMES TRIMARCHI, Jr.
"Secretary of State

"(SEAL)

"THE STATE OF SOUTH DAKOTA

"By Archie Gubbrud, Governor

"Dated: 3-26-62

"Attest: ESSIE WIEDENMAN
"Secretary of State

"(SEAL)

"THE STATE OF TENNESSEE

"By Buford Ellington, Governor

"Dated: 9-10-62

"Attest: JOE C. CARR
"Secretary of State

"(SEAL)

"THE STATE OF TEXAS

"By Price Daniel, Governor

"Dated: 10-16-61

"Attest: P. FRANK LAKE
"Secretary of State

"(SEAL)

"THE STATE OF UTAH

"By George D. Clyde, Governor

"Dated:

"Attest: LAMONT F. TORONTO
"Secretary of State

"(SEAL)

"THE STATE OF WASHINGTON

"By Albert D. Rosellini, Governor

"Dated: 10-25-62

"Attest: VICTOR A. MEYERS
"Secretary of State

"(SEAL)

"THE STATE OF WEST VIRGINIA

"By W. W. Barron, Governor

"Dated: 10-10-62

"Attest: JOE F. BURDETT
"Secretary of State

"(SEAL)

"THE STATE OF WYOMING

"By Jack R. Gage, Governor

"Dated: 10-3-62

"Attest: ROBERT OUTSEN
"Deputy Secretary of State

"(SEAL)".

SEC. 2. The Attorney General of the United States shall continue to make an annual report to Congress, as provided in section 2 of Public Law 185, Eighty-fourth Congress, for the duration of the Interstate Compact to Conserve Oil and Gas as to whether or not the activities of the States under the provisions of such compact have been consistent with the purpose as set out in article V of such compact.

SEC. 3. The right to alter, amend, or repeal the provisions of section 1 is hereby expressly reserved.

Mr. PROXMIRE. Mr. President, this joint resolution was heard before the Committee on Interior and Insular Affairs in the past week. I appeared before the committee on this proposal. I wish to make a very brief record as to the joint resolution now on the floor.

A similar resolution was passed 4 years ago, which required an annual report by the Department of Justice on monopolistic tendencies within the oil industry. The Department of Justice reported in 1959 but failed to report in 1960, 1961, and 1962. The law was clear. The failure of the Nation's principal law-enforcement official was conspicuous.

The record in the hearings last week was very clear that the intention of the committee is that there shall be an annual report. This was the reason I appeared.

I think the annual report is absolutely essential. In fact, I think it is the most important segment, the one real public interest instrument of the legislation. This is the single legal instrumentality available to Congress to make possible a regular objective, competent study of the oil industry from the standpoint of those who have no vested interest in it.

I hope the Department of Justice will henceforth take this clear statement in the law very seriously and will make the annual report required to be made by law every year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

INVITATION TO HOLD 1968 WINTER OLYMPIC GAMES IN THE UNITED STATES

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 360, Senate Joint Resolution 67.

The PRESIDING OFFICER. The resolution will be stated by title.

The LEGISLATIVE CLERK. A joint resolution (S.J. Res. 67) extending an invitation to the International Olympic Committee to hold the 1968 winter Olympic games in the United States.

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

The motion was agreed to; and the Senate proceeded to consider the joint resolution.

Mr. MANSFIELD. Mr. President, I understand that there is a House joint resolution along similar lines. I ask unanimous consent that the Senate Foreign Relations Committee be discharged from further consideration of House Joint Resolution 324, and that the Senate proceed to the immediate consideration of the House joint resolution.

The PRESIDING OFFICER. The House joint resolution will be stated by title.

The LEGISLATIVE CLERK. A joint resolution (H.J. Res. 324) extending an invitation to the International Olympic Committee to hold the 1968 winter Olympic games in the United States.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Without objection, the Foreign Relations Committee is discharged from fur-

ther consideration of House Joint Resolution 324.

The House joint resolution (H.J. Res. 324) was considered, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. Without objection, Senate Joint Resolution 67 will be indefinitely postponed.

HOLDING OF OLYMPIC GAMES IN AMERICA IN 1968

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 361, Senate Joint Resolution 72.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The LEGISLATIVE CLERK. A joint resolution (S.J. Res. 72) favoring the holding of the winter Olympic games in America in 1968.

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

The motion was agreed to; and the joint resolution was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Whereas the United States Olympic Association will invite the International Olympic Committee to hold the Olympic games at Detroit, Michigan, in 1968; and

Whereas Detroit has demonstrated a willingness and capacity to provide excellent facilities for the games and the visitors who attend them; and

Whereas Detroit's midwestern location will offer foreign visitors a revealing look at the American heartland; and

Whereas the United States has not hosted the games since 1932 and would be honored to welcome this enterprise in international good will: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Government of the United States, therefore, expresses the sincere hope that the Olympic games will be held in this country in 1968 and pledges continuing support of the principles on which the Olympic games are founded.

SEC. 2. The Secretary of State is directed to transmit a copy of this resolution to the International Olympics Committee.

The PRESIDING OFFICER. Without objection, the preamble is agreed to.

CRIMINAL JUSTICE ACT OF 1963

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 320, Senate bill 1057.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 1057) to promote the cause of criminal justice by providing for the representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States.

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

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment on page 1, after line 4, to strike out:

SEC. 2. Title 18 of the United States Code is amended by adding immediately after section 3006 the following new section:

"§ 3006A. Adequate representation of defendants

"(a) CHOICE OF PLAN.—Each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan designed to effectuate the provisions of this section for furnishing representation for defendants charged with felonies or misdemeanors, other than petty offenses as defined in section 1 of this title, who are financially unable to obtain an adequate defense. Representation under each plan shall include counsel and such investigative, expert, and other services necessary to an adequate defense. The provision for counsel under each plan shall conform to one of the following:

"(1) Representation by private attorneys;

"(2) Representation by a full-time or part-time Federal public defender and assistants;

"(3) Representation by attorneys furnished by a bar association, or a legal aid society or other local defender organization; or

"(4) Representation according to a plan containing any combination of the foregoing.

Prior to approving the plan for a district, the judicial council of the circuit shall supplement the plan with provisions for the representation on appeal of defendants financially unable to obtain representation. Consistent with the provisions of this section, the district court may modify a plan at any time with the approval of the judicial council of the circuit; it shall modify the plan when directed by the judicial council of the circuit. The district court shall notify the Director of the Administrative Office of the United States Courts of modifications in its plan.

"(b) APPOINTMENT OF COUNCIL.—In every criminal case in which the defendant appears without counsel, the United States commissioner or the court shall advise the defendant that he has the right to be represented by counsel and that counsel will be appointed to represent him if he is financially unable to obtain counsel. Unless the defendant waives the appointment of counsel, the United States commissioner or the court, if satisfied after appropriate inquiry that the defendant is financially unable to obtain counsel, shall appoint counsel to represent him. The United States commissioner or the court shall appoint separate counsel for defendants who have such conflicting interests that they cannot properly be represented by the same counsel, or when good cause is otherwise shown.

"(c) DURATION AND SUBSTITUTION OF APPOINTMENTS.—A defendant for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance before the United States commissioner or court, or from any subsequent stage at which counsel is appointed, through appeal. If at any time after the appointment of counsel the court having jurisdiction of the case is satisfied that the defendant is financially able to obtain counsel or to make partial payment for the representation, he may terminate the appointment of counsel or authorize payment as provided in subsection (h), as the interests of justice may dictate. The United States commissioner or the court may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceedings.

"(d) SERVICES OTHER THAN COUNSEL.—The plan for each district shall contain provisions for furnishing investigative, expert, or other services necessary to an adequate defense to each defendant determined by the United States commissioner or the court after appropriate inquiry to be financially unable to obtain them. The plan shall set forth the circumstances under which specific authorization will be required for a defendant to obtain particular services. Any plan may provide for services to be furnished by salaried staff personnel or by personnel retained specially in each case, or by a combination of such means. Except where services are rendered by salaried staff personnel, the court which authorized them, or the district court in any case in which the United States commissioner authorized them, shall direct the payment of reasonable compensation to the person who rendered them. A claim for compensation shall be supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant, and the compensation received in the same case from any other source.

"(e) PRIVATE ATTORNEYS.—A private attorney appointed pursuant to this section shall at the conclusion of the representation or any segment thereof be compensated at a rate not exceeding $15 per hour for time reasonably expended and be reimbursed for expenses reasonably incurred. A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States commissioner or that court, and to each appellate court before which the attorney represented the defendant. Each claim shall be supported by an affidavit specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States commissioner or court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall, in each instance, fix the compensation and reimbursement to be paid to the attorney.

"(f) FEDERAL PUBLIC DEFENDERS.—A Federal public defender who is to serve in any district pursuant to this section shall be appointed by the judicial council of the circuit after receiving recommendations from the district court. Such appointment, whether on a full-time or part-time basis, shall be for a term of four years unless sooner terminated by the judicial council of the circuit for incompetency, misconduct, or neglect of duty. The salary of a full-time Federal public defender shall not exceed that of the United States attorney in the same district; the salary of a part-time Federal public defender shall be adjusted accordingly. The Federal public defender may employ assistant Federal public defenders at salaries not to exceed the highest salary authorized to be paid to an assistant United States attorney in the same district, and part-time assistants at salaries adjusted accordingly. The Federal public defender may also employ full-time or part-time investigative, expert, clerical, and other personnel necessary to the efficient performance of the duties of his office.

"(g) LOCAL DEFENDERS.—A bar association, or legal aid society or other local defender organization which furnishes attorneys pursuant to this section shall at the conclusion of each representation or any segment thereof be compensated at a rate not exceeding $15 per hour for time reasonably expended by its attorneys and be reimbursed for expenses reasonably incurred. A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States commissioner or that court, and to each appellate court before which the organization's attorneys represented the defendant. The claim shall be supported by an affidavit specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States commissioner or court, and the compensation and reimbursement

applied for or received in the same case from any other source. The court shall, in each instance, fix the compensation and reimbursement to be paid to the organization.

"(h) RECEIPT OF OTHER PAYMENTS.—Whenever the court is satisfied that money is available for payment from or on behalf of a defendant, he may authorize or direct that it be paid to appointed counsel or to any person authorized pursuant to subsection (d) to assist in the representation, or to the court for deposit in the United States Treausry as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section. Except as so authorized or directed, no such person may request or accept any payment or promise of payment for assisting in the representation of a defendant.

"(i) PENALTIES.—False affidavits filed pursuant to subsections (d), (e), or (g), and false statements made by defendants in the course of inquiries conducted under subsections (b) or (d) for the purpose of securing counsel or services, shall subject the persons making such affidavits or statements to the penalties prescribed by law.

"(j) REPORTS.—Each district court and judicial council of a circuit shall submit a report on the operation of the plan within its jurisdiction to the Director of the Administrative Office of the United States Courts in such form and at such times as the Judicial Conference of the United States may specify.

"(k) APPROPRIATIONS.—There are authorized to be appropriated to the United States courts, out of any money in the Treasury not otherwise appropriated, sums necessary to carry out the provisions of this section. When so specified in appropriation acts, such appropriations shall remain available until expended. Payments from such appropriations shall be made under the supervision of the Director of the Administrative Office of the United States Courts.

"(1) DISTRICTS INCLUDED.—The term 'district court' as used in this section includes the District Court of the Virgin Islands, the District Court of Guam, and the district courts of the United States created by chapter 5 of title 28, United States Code."

SEC. 3. The analysis of chapter 201 of title 48, United States Code, is amended by adding immediately after section 3006 the following new item:

"3006A. Adequate representation of defendants."

SEC. 4. Each district court shall within six months from the date of this enactment submit to the judicial council of the circuit a plan formulated in accordance with section 2. Each judicial council shall within nine months from the date of this enactment approve and transmit to the Administrative Office of the United States Courts a plan for each district in its circuit. Each district court and court of appeals shall place its approved plan in operation within one year from the date of this enactment.

And, in lieu thereof, to insert:

SEC. 2. Title 18 of the United States Code is amended by adding immediately after section 3006 the following new section:

"§ 3006A. Adequate representation of defendants

"(a) CHOICE OF PLAN.—Each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for defendants charged with felonies or misdemeanors, other than petty offenses as defined in section 1 of this title, who are financially unable to obtain an adequate defense. Representation under each plan shall include counsel and such investigative, expert, and other services necessary to an adequate defense. The provision for counsel under each plan shall conform to one of the following:

"(1) Representation by private attorneys;

"(2) Representation by private attorneys and a full-time or part-time Federal public defender and assistants;

"(3) Representation by attorneys furnished by a bar association, or a legal aid society or other local defender organization; or

"(4) Representation according to a plan containing any combination of the foregoing.

The office of Federal public defender shall not be established in any district except upon approval of the plan for such district, or modification thereof, by the judicial council of the circuit and the Judicial Conference of the United States on the basis of a finding that the volume of cases in which defendants require the appointment of counsel exceeded one hundred and fifty cases in the last fiscal year for which the Administrative Office of the United States Courts has statistics and that the efficient and economical furnishing of adequate representation cannot be achieved without the appointment of a full-time or part-time Federal public defender. Prior to approving the plan for a district, the judicial council of the circuit shall supplement the plan with provisions for the representation on appeal of defendants financially unable to obtain representation. Consistent with the provisions of this section, the district court may modify a plan at any time with the approval of the judicial council of the circuit; it shall modify the plan when directed by the judicial council of the circuit. The district court shall notify the Director of the Administrative Office of the United States Courts of modifications in its plan.

"(b) APPOINTMENT OF COUNSEL.—In every criminal case in which the defendant appears without counsel, the United States commissioner or the court shall advise the defendant that he has the right to be represented by counsel and that counsel will be appointed to represent him if he is financially unable to obtain counsel. Unless the defendant waives the appointment of counsel, the court, if satisfied after appropriate inquiry that the defendant is financially unable to obtain counsel, shall appoint counsel to represent him. The court shall appoint separate counsel for defendants who have such conflicting interests that they cannot properly be represented by the same counsel, or when good cause is otherwise shown.

"(c) DURATION AND SUBSTITUTION OF APPOINTMENTS.—A defendant for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance before the United States commissioner or court, or from any subsequent stage at which counsel is appointed, through appeal. If at any time after the appointment of counsel the court having jurisdiction of the case is satisfied that the defendant is financially able to obtain counsel or to make partial payment for the representation, he may terminate the appointment of counsel or authorize payment as provided in subsection (h), as the interests of justice may dictate. The court may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceedings.

"(d) SERVICES OTHER THAN COUNSEL.—Counsel for a defendant who is financially unable to obtain investigative, expert, or other services necessary to an adequate defense in his case may file an ex parte application for them to the court. Upon finding, after appropriate inquiry, that the services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the services on behalf of the defendant. The court may, in the interests of justice, and upon a finding that timely procurement of necessary services could not await prior authorization, ratify such services after they have been obtained. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them upon his filing of a claim for compensation supported by a statement specifying the time expended, services rendered, and expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source.

"(e) PRIVATE ATTORNEYS.—A private attorney appointed pursuant to this section shall at the conclusion of the representation or any segment thereof be compensated at a rate not exceeding $15 per hour for time reasonably expended and be reimbursed for expenses reasonably incurred. A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States commissioner or that court, and to each appellate court before which the attorney represented the defendant. Each claim shall be supported by a statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States commissioner or court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall, in each instance, fix the compensation and reimbursement to be paid to the attorney.

"(f) FEDERAL PUBLIC DEFENDERS.—A Federal public defender who is to serve in any district pursuant to this section shall be appointed by the judicial council of the circuit after receiving recommendations from the district court. Such appointment, whether on a full-time or part-time basis, shall be for a term of four years unless sooner terminated by the judicial council of the circuit for incompetency, misconduct, or neglect of duty. The salary of a full-time Federal public defender shall not exceed that of the United States attorney in the same district; the salary of a part-time Federal public defender shall be adjusted accordingly. The Federal public defender may employ assistant Federal public defenders at salaries not to exceed the highest salary authorized to be paid to an assistant United States attorney in the same district, and part-time assistants at salaries adjusted accordingly. The Federal public defender may also employ full-time or part-time investigative, expert, clerical, and other personnel necessary to the efficient performance of the duties of his office.

"(g) LOCAL DEFENDERS.—A bar association or legal aid society or other local defender organization which furnishes attorneys pursuant to this section shall, at the conclusion of each representation or any segment thereof, be compensated at a rate not exceeding $15 per hour for time reasonably expended by its attorneys and be reimbursed for expenses reasonably incurred. A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States commissioner or that court, and to each appellate court before which the organization's attorneys represented the defendant. The claim shall be supported by a statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States commissioner or court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall, in each instance, fix the compensation and reimbursement to be paid to the organization.

"(h) RECEIPT OF OTHER PAYMENTS.—Whenever the court is satisfied that money is available for payment from or on behalf of a defendant, he may authorize or direct that it be paid to appointed counsel or to any person authorized pursuant to subsection (d) to assist in the representation, or

to the court for deposit in the United States Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section. Except as so authorized or directed, no such person may request or accept any payment or promise of payment for assisting in the representation of a defendant.

"(i) APPOINTMENTS BY COMMISSIONERS.—Whenever the geographical range of the district, established practice therein, or the effective administration of justice to secure timely appointments of counsel under subsection (b) or timely authorizations of investigative, expert, or other services under subsection (d), warrant that such appointments or authorizations be made by a United States commissioner, the plan for a district shall specify the circumstances and conditions under which commissioners may exercise such authority. Each such plan shall require the United States commissioner to appoint counsel from a roster of attorneys designated or approved by the district court, and to report each such appointment promptly to the district court.

"(j) RULES AND REPORTS.—The Judicial Conference of the United States may, from time to time, issue rules and regulations governing the operation of plans formulated under this section. Each district court and judicial council of a circuit shall submit a report on the operation of the plans within its jurisdiction to the Director of the Administrative Office of the United States Courts in such form and at such times as the Judicial Conference of the United States may specify.

"(k) APPROPRIATIONS.—There are authorized to be appropriated to the United States courts, out of any money in the Treasury not otherwise appropriated, sums necessary to carry out the provisions of this section. When so specified in appropriation Acts, such appropriations shall remain available until expended. Payments from such appropriations shall be made under the supervision of the Director of the Administrative Office of the United States Courts.

"(l) DISTRICTS INCLUDED.—The term 'district court' as used in this section includes the District Court of the Virgin Islands, the District Court of Guam, and the district courts of the United States created by chapter 5 of title 28, United States Code."

SEC. 3. The analysis of chapter 201 of title 18, United States Code, is amended by adding after section 3006 the following new item:

"3006A. Adequate representation of defendants."

SEC. 4. Each district court shall within six months from the date of this enactment submit to the judicial council of the circuit a plan formulated in accordance with section 2 and any regulations issued thereunder by the Judicial Conference of the United States. Each judicial council shall within nine months from the date of this enactment approve and transmit to the Administrative Office of the United States Courts a plan for each district in its circuit. Each district court and court of appeals shall place its approved plan in operation within one year from the date of this enactment.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Justice Act of 1963."

SEC. 2. Title 18 of the United States Code is amended by adding immediately after section 3006 the following new section:

"§ 3006A. Adequate representation of defendants."

"(a) CHOICE OF PLAN.—Each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for defendants charged with felonies or misdemeanors, other than petty offenses as defined in section 1 of this title, who are financially unable to obtain an adequate defense. Representation under each plan shall include counsel and such investigative, expert, and other services necessary to an adequate defense. The provision for counsel under each plan shall conform to one of the following:

"(1) Representation by private attorneys;

"(2) Representation by private attorneys and a full-time or part-time Federal public defender and assistants;

"(3) Representation by attorneys furnished by a bar association, or a legal aid society or other local defender organization; or

"(4) Representation according to a plan containing any combination of the foregoing. The office of Federal public defender shall not be established in any district except upon approval of the plan for such district, or modification thereof, by the judicial council of the circuit and the Judicial Conference of the United States on the basis of a finding that the volume of cases in which defendants require the appointment of counsel exceeded one hundred and fifty cases in the last fiscal year for which the Administrative Office of the United States Courts has statistics and that the efficient and economical furnishing of adequate representation cannot be achieved without the appointment of a full-time or part-time Federal public defender. Prior to approving the plan for a district, the judicial council of the circuit shall supplement the plan with provisions for the representation on appeal of defendants financially unable to obtain representation. Consistent with the provisions of this section, the district court may modify a plan at any time with the approval of the judicial council of the circuit; it shall modify the plan when directed by the judicial council of the circuit. The district court shall notify the Director of the Administrative Office of the United States Courts of modifications in its plan.

"(b) APPOINTMENT OF COUNSEL.—In every criminal case in which the defendant appears without counsel, the United States commissioner or the court shall advise the defendant that he has the right to be represented by counsel and that counsel will be appointed to represent him if he is financially unable to obtain counsel. Unless the defendant waives the appointment of counsel, the court, if satisfied after appropriate inquiry that the defendant is financially unable to obtain counsel, shall appoint counsel to represent him. The court shall appoint separate counsel for defendants who have such conflicting interests that they cannot properly by represented by the same counsel, or when good cause is otherwise shown.

"(c) DURATION AND SUBSTITUTION OF APPOINTMENTS.—A defendant for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance before the United States commissioner or court, or from any subsequent stage at which counsel is appointed, through appeal. If at any time after the appointment of counsel the court having jurisdiction of the case is satisfied that the defendant is financially able to obtain counsel or to make partial payment for the representation, he may terminate the appointment of counsel or authorize payment as provided in subsection (h), as the interests of justice may dictate. The court may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceedings.

"(d) SERVICES OTHER THAN COUNSEL.—Counsel for a defendant who is financially unable to obtain investigative, expert, or other services necessary to an adequate defense in his case may file an ex parte application for them to the court. Upon finding, after appropriate inquiry, that the services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the services on behalf of the defendant. The court may, in the interests of justice, and upon a finding that timely procurement of necessary services could not await prior authorization, ratify such services after they have been obtained. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them upon his filing of a claim for compensation supported by a statement specifying the time expended, services rendered, and expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source.

"(e) PRIVATE ATTORNEYS.—A private attorney appointed pursuant to this section shall at the conclusion of the representation or any segment thereof be compensated at a rate not exceeding $15 per hour for time reasonably expended and be reimbursed for expenses reasonably incurred. A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States commissioner or that court, and to each appellate court before which the attorney represented the defendant. Each claim shall be supported by a statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States commissioner or court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall, in each instance, fix the compensation and reimbursement to be paid to the attorney.

"(f) FEDERAL PUBLIC DEFENDERS.—A Federal public defender who is to serve in any district pursuant to this section shall be appointed by the judicial council of the circuit after receiving recommendations from the district court. Such appointment, whether on a full-time or part-time basis, shall be for a term of four years unless sooner terminated by the judicial council of the circuit for incompetency, misconduct, or neglect of duty. The salary of a full-time Federal public defender shall not exceed that of the United States attorney in the same district; the salary of a part-time Federal public defender shall be adjusted accordingly. The Federal public defender may employ assistant Federal public defenders at salaries not to exceed the highest salary authorized to be paid to an assistant United States attorney in the same district, and part-time assistants at salaries adjusted accordingly. The Federal public defender may also employ full-time or part-time investigative, expert, clerical, and other personnel necessary to the efficient performance of the duties of his office.

"(g) LOCAL DEFENDERS.—A bar association or legal aid society or other local defender organization which furnishes attorneys pursuant to this section shall, at the conclusion of each representation or any segment thereof, be compensated at a rate not exceeding $15 per hour for time reasonably expended by its attorneys and be reimbursed for expenses reasonably incurred. A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States commissioner or that court, and to each appellate court before which the organization's attorneys represented the defendant. The claim shall be supported by a statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States commissioner or court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall, in each instance, fix the compensation and reimbursement to be paid to the organization.

"(h) RECEIPT OF OTHER PAYMENTS.—Whenever the court is satisfied that money is available for payment from or on behalf of a defendant, he may authorize or direct that it be paid to appointed counsel or to any person authorized pursuant to subsection (d) to assist in the representation, or to the court for deposit in the United States Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section. Except as so authorized or directed, no such person may request or accept any payment or promise of payment for assisting in the representation of a defendant.

"(i) APPOINTMENTS BY COMMISSIONERS.—Whenever the geographical range of the district, established practice therein, or the effective administration of justice to secure timely appointments of counsel under subsection (b) or timely authorizations of investigative, expert, or other services under subsection (d), warrant that such appointments or authorizations be made by a United States commissioner, the plan for a district shall specify the circumstances and conditions under which commissioners may exercise such authority. Each such plan shall require the United States commissioner to appoint counsel from a roster of attorneys designated or approved by the district court, and to report each such appointment promptly to the district court.

"(j) RULES AND REPORTS.—The Judicial Conference of the United States may, from time to time, issue rules and regulations governing the operation of plans formulated under this section. Each district court and judicial council of a circuit shall submit a report on the operation of the plans within its jurisdiction to the Director of the Administrative Office of the United States Courts in such form and at such times as the Judicial Conference of the United States may specify.

"(k) APPROPRIATIONS.—There are authorized to be appropriated to the United States courts, out of any money in the Treasury not otherwise appropriated, sums necessary to carry out the provisions of this section. When so specified in appropriation Acts, such appropriations shall remain available until expended. Payments from such appropriations shall be made under the supervision of the Director of the Administrative Office of the United States Courts.

"(l) DISTRICTS INCLUDED.—The term 'district court' as used in this section includes the District Court of the Virgin Islands, the District Court of Guam, and the district courts of the United States created by chapter 5 of title 28, United State Code."

SEC. 3. The analysis of chapter 201 of title 18, United States Code, is amended by adding immediately after section 3006 the following new item:

"3006A. Adequate representation of defendants."

SEC. 4. Each district court shall within six months from the date of this enactment submit to the judicial council of the circuit a plan formulated in accordance with section 2 and any regulations issued thereunder by the Judicial Conference of the United States. Each judicial council shall within nine months from the date of this enactment approve and transmit to the Administrative Office of the United States Courts a plan for each district in its circuit. Each district court and court of appeals shall place its approved plan in operation within one year from the date of this enactment.

Mr. HRUSKA. Mr. President, S. 1057, the Criminal Justice Act of 1963, provides adequate representation in the Federal courts of accused persons lacking the means to insure for themselves a proper defense.

The Senate, I am proud to say, has demonstrated a steadfast interest in such legislation. This is the fourth successive Congress in which this body has considered and passed legislation of this kind. Last fall I was privileged to report a bill similar to the one at hand to the Senate for passage. As it happened in the two previous Congresses, however, passage came too late for the House to take up the measure.

I mention this fact, Mr. President, for two purposes. The first is to emphasize the care and concern which the Senate has given to this bill. It is not a matter that has been treated routinely or with casual indifference. From personal observation and experience, I can assure this body that countless numbers of hours have been devoted to perfecting a measure that will properly serve its stated purposes.

The sponsors of the bill have been particularly fortunate in that regard, to have the thoughtful advice of practicing members of the legal profession, the Federal judiciary, the staff of the Attorney General, members of the faculties of several law schools, and others.

It will be clear from the legislative history and the hearings on S. 1057 and related measures that no effort was spared to develop and devise a very effective piece of legislation so as to meet the requirements of the sixth amendment and to satisfy our own inborn sense of what is right and just in administration of our criminal laws. Speaking for the Judiciary Committee, which reported S. 1057 unanimously, I can assure the Senate that the Criminal Justice Act of 1963 satisfies these standards.

Secondly, I think that it is essential to emphasize the long history of Senate interest in this subject if only to resolve any questions in the minds of my colleagues as to why, with such support, no bill has yet been enacted. One reason has been the matter of scheduling the legislation sufficiently early in the session to allow for its consideration by the other body and to take into account the attitudes and views expressed by the House. The clock and the calendar, so to speak, were insurmountable obstacles, for I can say confidently that the interest in this legislation is not monopolized by the Senate. It has been my privilege to consult and to be well advised by our colleagues in the other body whose efforts on behalf of this bill are as fully directed toward enactment as our own.

S. 1057, as reported with an amendment in the nature of a substitute, is the product not only of past experience with public defender legislation introduced in this body but of extended hearings before the Judiciary Committee and consultation with my colleagues on both sides of the aisle and in both Chambers of the Congress. It is carefully drawn to avoid abuse while seeking to remedy a chronic problem of serious proportions in our Federal courts.

As the report indicates, nearly 10,000 persons, more than 30 percent of the total number of defendants in Federal criminal cases, annually require court-appointed attorneys because they cannot afford to pay for their own. Yet these attorneys are not paid for their services, although the cases may entail extensive trial work. They are not reimbursed for their out-of-pocket costs that such representation necessarily involves. They do not receive any investigative or expert help. They are not appointed until long after the arrest, when witnesses may have disappeared and leads grown stale. Frequently court-appointed counsel lack the trial experience essential to a competent defense.

Fair-minded men can only conclude that, taken together, such factors create a situation which falls far short of assuring equal justice to persons with insufficient means to provide for their own defense.

It is not my purpose, Mr. President, to paraphrase the Senate report. It speaks for itself. I ask unanimous consent for insertion at the conclusion of my remarks selected paragraphs from the report.

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

(See exhibit 1.)

Mr. HRUSKA. Mr. President, the proposed legislation specifies a number of alternatives, or options, for assigning counsel. It provides for early appointment of counsel whose services are to continue throughout all stages of the proceedings. It makes provision for investigative, expert, and other services necessary to an adequate defense. And lastly it affords reasonable compensation to counsel who are assigned.

I would only stress to the Senate that the intrinsic value of this bill is its fundamental flexibility. If I were to identify the one element which had pervaded all prior hearings on this legislation and which persists as the paramount factor in the minds of those recommending its enactment, it is that each judicial district ought to be allowed to devise and design for itself a system most appropriate to its prior practices and customs.

The local option proviso, allowing the Federal judges in consultation with the bar to have the widest discretion in working out a system best adapted to its needs, is the chief value of the bill. What works best in New York City may not be appropriate for North Platte, Nebr. Even among districts with comparable criminal caseloads, experience suggests that different approaches may be possible. The committee contends, as all who have worked with this bill know, that home rule should in the final analysis govern what system is adopted.

However, in saying this I also want to call attention to the careful provisions made in the bill to insure against abuse. In the first instance, the overall responsibility for administering the plans throughout the Federal court system is placed in the Judicial Conference of the United States. It will issue rules and regulations and be guided by reports required to be furnished on the operation of the plans. In addition, careful safeguards have been built into the legislation to assure that the establishment of a public defender office, where preferred, is limited to only those districts requiring substantial appointments of counsel; the minimum is 150 such cases per year. Lastly, of course, the Congress, with control of the purse strings, will be equally sensitive to the appropriate application of the provisions of this bill.

Mr. President, hard study has convinced me that this legislation is both worthwhile and needed. We have been impressed with the conscientious attitude the Federal courts have demonstrated toward establishing prudent systems within their respective districts. We are mindful, on the other hand, that the assumption of this responsibility will not be without costs. But these costs, Mr. President, are rightfully to be borne if the realization—not merely the aspiration—of equal treatment for every litigant is to be achieved.

It is for these reasons I urge the passage of this bill.

EXHIBIT 1

PURPOSE OF THE BILL AS AMENDED

To assure adequate representation in the Federal courts of accused persons with insufficient means, the Criminal Justice Act specifies a number of alternatives, or options, for assigning counsel; contemplates early appointment of counsel whose services are to continue throughout all stages of the proceedings; provides investigative, expert, and other services necessary to an adequate defense; and affords reasonable compensation to counsel who are assigned.

STATEMENT

The committee held 3 days of hearings on S. 1057 and related legislation, during which representatives of the Department of Justice, the Judiciary, the American Bar Association, and others appeared. The record demonstrates a considerable and long-overdue need for such legislation.

Nearly 10,000 persons, more than 30 percent of the total number of defendants in Federal criminal cases, annually require court appointed attorneys because they cannot afford to pay for their own. The inadequacy of the representation furnished by these lawyers is widely recognized. They are not paid for their services. They are not reimbursed for their out-of-pocket costs. They do not receive any investigative or expert help. They are not appointed until long after the arrest, when witnesses may have disappeared and leads grown stale. They often lack the trial experience essential for a competent defense. Taken together, these factors create a situation which falls far short of assuring equal justice to persons with insufficient means to provide for their own defense.

The Attorney General's statement, which sets forth the basic framework of the Criminal Justice Act, its background, and the problems it is designed to meet, is attached as an appendix to this report. Briefly, the legislation requires that a system of adequate representation be established in every Federal district. Each district may devise whatever plan is best suited to its local situation, but the plan must include provisions for compensating counsel and furnishing expert or investigative services whenever needed. No district's plan may be adopted without approval by the judicial council of its circuit.

The overall responsibility for administering the plans throughout the Federal court system is vested in the Judicial Conference of the United States. The bill authorizes the Conference to issue rules and regulations governing the manner in which the districts are to implement the provisions of the statute.

The plans contemplated by the bill will spell out for the judges, lawyers, and citizens of each district the procedure by which counsel and factfinding services will be furnished to qualified defendants. They may provide different procedures for preliminary hearings, trials, and appeals. They may specify whether inquiry to screen qualified defendants will be made by hearing, affidavit, or interview by a panel of private lawyers. They may establish fee standards and guidelines for representation at the various stages of the proceeding. They may call for a roster of attorneys competent to undertake the trial of serious criminal cases.

These plans will enable Congress to determine how the statute is being applied. They will, as well, provide a basis for determining necessary appropriations. Plans which prove successful may become prototypes for adoption elsewhere, not only in the Federal courts but in those of the several States.

ALTERNATIVE METHODS OF PROVIDING COUNSEL

In selecting the plan best suited to local needs and preferences, each district is given several alternative methods of providing counsel. These alternatives are quite flexible. The first option is to appoint counsel from attorneys in private practice. Districts choosing this option may compensate lawyers at a rate not exceeding $15 an hour for their services and may reimburse them for necessary expenses incurred on behalf of the defendant. While the committee recognizes that this amount is less than the prevailing rates charged for similar legal services in many areas, the figure avoids the patent unfairness of requiring lawyers to discharge the public's duty at their personal expense.

The second option, limited to districts having substantial appointments of counsel, permits the establishment of a Federal public defender office with necessary assistants and staff. In order to continue the participation of the private bar, this option combines representation by public defenders with private attorneys. In order to safeguard the independence of the public defenders from control by either the trial court or the executive branch, provision is made for the appointment of the public defender by the judicial council of each circuit. The act permits salaries for public defenders and their assistants to be set by the plan at a level equivalent to those authorized for the U.S. attorneys and their assistants in the same district. The act also makes provision for part-time public defenders as the needs require. The size and facilities of each Federal public defender office, once this option is chosen, will be determined by the plan for the district, making proper allowance for the normal caseload and the availability of private attorneys to receive assignments.

The third option provides for participation by bar associations, legal aid societies, and other local defender organizations, public or private, in furnishing attorneys for court appointment. This provision takes into account the valuable role which such organizations have played in a number of jurisdictions. Under this option, the assignment in individual cases will be made to an attorney furnished by the organization and not to the organization itself, although compensation and reimbursement will be made directly to the organization.

Finally, the Criminal Justice Act permits each district to adopt a system containing any combination of the first three options.

PROVISION FOR SERVICES OTHER THAN COUNSEL

The committee recognizes that an adequate defense also requires the availability of factfinding services to assist counsel in his preparation of the case. The importance of skilled investigation and expert analysis of evidence is underscored in police work every day. The prosecuting attorney cannot function without the facts. It is no less true for the defense.

Counsel and services may, but need not, go together. An accused who is without funds may obtain appointed counsel but have no need for the services of an investigator. Another defendant, who uses up his funds to hire a lawyer, may qualify to have an investigator or expert furnished in order adequately to prepare his case for trial. The bill recognizes that many defendants are able to pay for part, but not all, of the expenses of litigation. Its provisions therefore become operative whenever the resources of an accused are inadequate to provide for his defense.

Applications for factfinding services will be considered by the court on an ex parte basis in order to protect the accused from premature disclosure of his case. They will be granted upon the finding that the services reasonably appear to be necessary and that the defendant is unable to pay for them. Provision is also made for court approval of services after they have been obtained in cases where timely procurement could not await prior authorization. Any plan devised by the district for furnishing factfinding services may authorize salaried staff personnel or may designate qualified private sources, or may combine the two. The plan may also establish guidelines for payment of reasonable fees when private service facilities are utilized.

APPOINTMENT BY U.S. COMMISSIONERS

The bill specifies that adequate representation will be furnished the accused at every stage of the proceedings from his initial appearance before the U.S. commissioner or court until the termination of appellate review. The committee was concerned that proper safeguards be devised whenever the appointing power is delegated to U.S. commissioners. The bill, therefore, provides that whenever the geographical situation, established practice, or other factors make it desirable to permit a U.S. commissioner to appoint counsel or authorize the securing of factfinding services, the district plan shall set forth the circumstances and conditions under which this authority may be exercised.

APPLICABILITY IN THE DISTRICT OF COLUMBIA

Although the District of Columbia is now served by the Legal Aid Agency established under Public Law 86–531, the committee considered it essential to include the District within the coverage of this statute in order to extend to the District the benefits which this act provides. The agency handles only one-half of the nearly 700 district court criminal cases annually assigned and has no specific provision for furnishing expert services or representation in appellate cases. Inclusion of the District will enable all appointed counsel in the trial and appellate courts to be compensated on a basis comparable to lawyers in other Federal districts. Since the agency qualifies as a local defender organization within the meaning of subsections (a) (3) and (g) of proposed section 3006A of title 18, the committee considers that it can be incorporated in any plan adopted by the District, without modification of its present statutory authority. The Legal Aid Agency of the District of Columbia would, therefore, for example, qualify to receive additional compensation provided for under proposed section 3006A to the extent that the plan for the District may so provide.

PENALTIES

The penalty provision was deleted from the original text as being unnecessary. This in no way alters the clear application of Federal statutes which relate to the making of false statements and the submission of false claims.

CONCLUSION

This is the fourth successive Congress in which the committee has reported legislation to provide for the representation of defendants who are financially unable to obtain an adequate defense in criminal cases. Were we to need a reminder of how necessary such legislation is, none could be more emphatic than the Supreme Court's ruling in *Gideon* v. *Wainwright* this past term, which held that an accused who is unable to obtain counsel must be furnished one by the State. The Court stated that our Nation's concept of due process requires that poverty shall be

no handicap in the defense of any person: "That Government hires lawyers to prosecute and defendants who have money hire lawyers to defend are the strongest indications of the widespread belief that lawyers in criminal courts are necessities, not luxuries. The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours."

While this right has been scrupulously observed in our Federal courts for the past quarter of a century, unfortunately there have been no means to implement the constitutional mandate other than by the appointment of counsel on a voluntary, unpaid, and nonreimbursable basis. The fact that no compensation is provided for the time a lawyer necessarily spends on the defense and no reimbursement is allowed for his expenses is not so much a matter of professional distress as it is of public concern. Such limitations do not work so much a hardship on the lawyer as they do on the defendant. While in many instances the response of the bar has been in the finest tradition, nevertheless far too often the result for the accused has been unfair.

The opportunity to remedy our present, haphazard system is provided by S. 1057. Through the collective efforts of the Department of Justice, the Judicial Conference, the legal profession, and the Congress, the realization, not merely the aspiration, of "equal treatment for every litigant before the bar" can be achieved.

Mr. CURTIS. Mr. President, I commend my senior colleague from Nebraska for his untiring efforts on the bill over many months. The contribution he has made will add greatly to the administration of justice by assuring that all persons will be treated in a fair manner, and particularly by providing that each accused, regardless of whether he has sufficient funds, will receive the benefits of counsel.

I commend my colleague for his fine contribution. He has led the way in this matter for a long period of time.

Mr. HRUSKA. I am grateful to my distinguished colleague from Nebraska for his kind remarks.

Mr. JAVITS. Mr. President, first, I commend the distinguished Senator from Nebraska for his fine leadership in this cause, which is a long-standing one. The report of the committee states that this is the fourth time such a bill has been before the Senate. Efforts to enact it have been frustrated, and such a bill has never been enacted into law.

The genius of the sovereign in matters of government is that sovereign shows it has a heart and a sense of justice.

There are few measures which have come before Congress that demonstrate this essential confidence in the system of justice in what we call Anglo-Saxon jurisdiction as does a public defender measure like the one now before the Senate.

When I was Attorney General of New York State, from 1955 to 1956, I recommended the enactment of a public defender measure by our State legislature, as the result of a statewide survey with respect to adequate legal counsel being made available to indigent youths charged with the commission of crime.

When I came to Congress I introduced two public defender bills, one with the Senator from Tennessee [Mr. KEFAUVER], and the other with the distinguished Senator and former judge of North Carolina, one of our outstanding lawyers in the Senate [Mr. ERVIN], who is present in the Chamber.

Interestingly enough, while it is well known that we do not always see eye to eye on many things, with respect to this particular area of elementary justice we have acted in unison.

Finally, I believe that the committee has done an excellent piece of work in connection with the three objections it has overcome.

All of us are solicitous about seeing to it that bar associations and legal aid societies and local forces have a chance. The committee has cared for that situation very satisfactorily.

Finally, I should like to add one further point, which I believe is critically important. We often decry juvenile delinquency and youth crime, and the great crime difficulties that are involved. We pass laws to deal with such problems; and I dare say that they are far more expensive, both in cost and in effort which individuals take, because there are few residuals in the mind of a young person—and I have seen this both as an attorney for the defense and as a prosecutor—that make him more resentful than the feeling that he has not had a proper opportunity to be represented, to have the sentence reduced, to clear himself, or to have a lawyer plead his case, because he cannot afford it, particularly when he reads in the newspapers an article stating that someone else has been able to do just that.

This is an elementary issue, in my opinion, which is critically important to the fight on juvenile delinquency and youth crime, as well as an expression of heart and conscience by the sovereign.

I again congratulate the Senator from Nebraska for the excellent work he has done on the bill.

Mr. HRUSKA. I thank the Senator from New York. As he has observed, this is the fourth session in which the Senate has acted on a public defender bill. As the Senator from New York knows, this is a type of legislation that has found its way not only into the literature of bar associations and other professional organizations, but also into the Halls of Congress. I venture to say that the Senator from New York and his colleague from New York [Mr. KEATING] have been among the first to introduce similar bills in prior sessions of Congress, for which they are entitled to recognition and I wish to accord that recognition to them now.

Mr. KEATING. Mr. President, the right to counsel in criminal proceedings has been recognized in American constitutional law from the earliest period of the Nation's history. Today, however, despite the guarantees of the sixth amendment and rule 44 of the Federal Rules of Criminal Procedure, the provision of adequate legal representation for indigent defendants in Federal courts remains an unsolved problem.

The enactment of a legal aid agency for the District of Columbia by the 86th Congress to provide free counsel for indigent defendants was a step in the right direction. Now the time has arrived for Congress to assure that adequate legal counsel for defendants is provided in all Federal courts.

What is required now is legislation that will insure experienced representation to all defendants in the Federal courts, so that we might have full compliance with the mandate of the Constitution.

The enactment of the bill before us will constitute a long stride toward achieving full compliance with the mandate of the Constitution. The bill is particularly effective in permitting each district to devise whatever plan is best suited to its local situation, while requiring that some system of adequate representation be established in every Federal district. The options provided by the bill will allow an effective integrated system of cooperation between the public defender system and those independent legal aid societies or organizations, as, for example, the Legal Aid Society of New York City, which have such a long and effective history in efforts to insure equal justice under the law.

This is a bipartisan matter; by the enactment of this legislation we will not be traveling into unchartered waters, but merely establishing the means by which to carry out the constitutional mandate.

I would like to point out that both the present Attorney General, Mr. Kennedy, and his predecessor, Mr. Rogers, have worked strenuously for enactment of legislation in this field. This bill (S. 1057) is the result of many years of serious study by leading authorities in the realm of criminal law.

Mr. President, I strongly urge that this bill receive favorable consideration by the Senate.

Mr. HRUSKA. I thank the junior Senator from New York for his statement.

Mr. ERVIN. Mr. President, the passage of the pending bill will be a landmark in the improvement of the administration of criminal justice. The able and distinguished Senator from Nebraska [Mr. HRUSKA] deserves the thanks of the country for the great work he has done in bringing this bill to this point in the Senate.

Mr. HRUSKA. I thank the Senator from North Carolina. He was of great assistance, as were all other members of the Judiciary Committee, to see that the bill was reported in its present form.

Reference was made to legal aid societies by the senior Senator from New York. Although the Senator from that great State is particularly eager that provision be made for taking advantage of the excellent work done by legal aid societies, there are several States in which that is true, although, of course, New York is one of the most noted in that respect.

Mr. ALLOTT. Mr. President, as a practicing attorney before I came to the Senate, I congratulate my distinguished colleague from Nebraska and all other Senators who played such an important part in bringing the bill to the floor. This is not the first time it has been before the Senate. It is my hope that this time the bill will become law and that

the country will have the advantage of the public defender system, which it has needed for such a long time.

A few moments ago the senior Senator from New York said that the bill was important with respect to our young men and women. In my opinion the bill is not limited to those people.

The law is a highly technical field. It requires great skill and great study. The law is always the master of the people who practice law.

In such a situation it is unfair and wrong that we should expect people to be able to defend themselves without having full recourse to good legal talent. It is a matter of impressing the justice of the courts upon everyone. They can hardly be expected to be impressed by this justice if people do not have adequate representation, and feel that somehow or other they have been denied justice.

I join many others in congratulating the Senator from Nebraska on the bill, which I know has been close to his heart for such a long time and on which he has done so much work. It is a great step forward.

Mr. HRUSKA. I thank the Senator from Colorado. He speaks with a vast background of experience both as a former prosecutor and defender. He knows the real problems that are involved.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

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

The motion to table was agreed to.

Mr. HRUSKA. I ask unanimous consent that the bill be printed in its final form.

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

UNIFORMED SERVICES PAY ACT OF 1963

Mr. MANSFIELD. Mr. President, before I call up the next order of business, I feel that I should comment upon the magnificent skill, generalship, and knowledge shown by the distinguished Senator from Nevada [Mr. CANNON] this afternoon. He knew his subject. He handled with great ability the amendments as they were offered. He performed a public service. He was able to have passed, on a unanimous basis, a bill which was long overdue and which will be met with wide acclaim by members of the armed services.

I point out, as the Senator from Nevada has done, that the bill passed by the Senate today is not a spendthrift bill, but is, in effect, an economy measure. A very great deal of money is spent by the Government upon the youngsters who enter our military service and are trained to be electronics experts, pilots of various kinds of aircraft, and skilled scientists. So long as they remain in the service, there is a return to the Government for the money expended. But when they terminate their service—and the turnover is quite large—additional funds must be used to train new personnel. In that way, expenses in the Military Establishment are very much increased.

To me, the pay bill is an economy measure, one which is long overdue, and one which will be welcomed, at long last, by the armed services.

Great credit and commendation must go to the distinguished Senator from Nevada for his accomplishment this afternoon, and I am delighted to give him such commendation at this time.

Mr. PROXMIRE. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I concur in everything the Senator from Montana has said. I have received from the Pentagon information that the cost of training a B–52 pilot in the ROTC is estimated by some to be $2,500,000 for each pilot. That is a perfectly astonishing cost. Although this may not be the cost of training an individual pilot, the fact is that some 327 persons enter training in order to produce 100 pilots who will stay in service. The high cost of training includes dropouts and attrition, because many of the pilots will take other positions or will enter other careers, without remaining in the service for which they have been trained.

The Senator from Montana makes an excellent point when he stresses the economy aspects of the bill.

Mr. MANSFIELD. The Senator's statement is correct, although I believe the figures he used apply primarily to pilots being trained under the ROTC program.

Mr. PROXMIRE. Yes. It is my understanding that pilots who are graduates of the Air Force Academy remain in the service in larger numbers, and with a most encouraging consistency. Something like 100 out of 118 remain in the service. So, of course, the cost in that respect is much less.

Mr. MANSFIELD. The proportion of those who remain in the service is far higher for those who come from the Air Force Academy. However, as the Senator from Wisconsin has stated, there is a larger attrition or a larger number of dropouts among those who are trained under the ROTC program.

I agree with the Senator from Wisconsin that the bill is an economy measure. I also wish to commend the Senate for its action in approving these two very important measures today, the military pay bill and the public defenders bill.

AGENCY POLICIES AND RESEARCH RESTRICTIONS

Mr. MORSE. Mr. President, first I want to congratulate the distinguished and able senior Senator from Alabama upon reporting the measure relating to appropriations for the Department of Health, Education, and Welfare, H.R. 5888.

It is indeed a herculean labor that he and his colleagues on the committee perform for us in an area that is vital, but which by its very nature, since it involves the disappointment of the hopes of some, is too often a thankless task.

In what follows, I wish to make perfectly clear that I have no quarrel with the decisions of the committee on specific items. Rather, my intention is to bring to the Senate information I have collected from distinguished scientists in Oregon regarding the policies and procedures of the National Institutes of Health and the National Science Foundation with respect to the controls exercised over grants made by these agencies.

Early in the year, I had the good fortune to talk with a most distinguished scientist during the course of an airplane trip. He is not an Oregonian, I might add. His representations to me caused me to look into the programs through both the published comment and a private survey in which I solicited views from Oregon scientists.

Mr. President, I ask unanimous consent that at this point in my remarks there be printed three editorials from Science dated January 25, February 1, and February 25, which set forth the problem which concerns me, and in addition, an article from the February 15 issue of Science written by Representative FOUNTAIN.

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

[From Science, Jan. 25, 1963]

CONGRESS AND RESEARCH

In almost any enterprise the agency furnishing monetary support has or can seize a predominant role in decisions affecting the way in which the money is spent. In applied research such control usually is desirable and even necessary. In fundamental research it is often well to give the investigator wide latitude to determine his own course. The wisdom of this policy has been widely recognized. The Government granting agencies have been particularly enlightened in their administration of research grants and have not unduly interfered with the conduct of basic research. Science has enjoyed bounteous support from Government with a minimum of onerous controls or influence.

My guess is that the honeymoon is about to end and that there could be trouble ahead. I see signs that Federal policies are changing and that various interferences with the optimum development of science are likely to stem from Washington. The scientific establishment may be in the process of coming under the closer control of Congress.

One reason for concern is that to an increasing degree our academic institutions have become dependent on Government grants and contracts. This one source now furnishes a greatly preponderant fraction of the money for research. Before the advent of large-scale Federal support, funds were limited, but they came from many sources. Only limited harm could result if an individual grantor pursued restrictive policies. In the early days of Federal grants, the agencies, in effect, were in competition with other sources of money. If Government policies were onerous, investigators felt little pressure to comply, they simply obtained their funds elsewhere. Thus the wisdom and restraint shown by the agencies were reinforced by the bargaining position of the scientists. This healthy situation has changed as Government has become the major source of university research funds

and as the bargaining position of academic scientists has weakened. Almost inevitably the relation of the research worker to his donor is destined to be altered.

This already has begun to occur. For years the National Institutes of Health pursued increasingly liberal policies. The good scientists were supported. There was almost no bureaucratic interference. Paperwork was held to a minimum. As a result we are in the midst of tremendous fundamental progress in biology and medicine, and the Nation is gaining and will ultimately gain even more in better medical practice. Congressional pressure has now forced a change in NIH policies. It has been alleged that the agency is not exercising sufficient control over the expenditure of Government funds. In consequence, NIH grantees are subjected to the irritating, time-consuming petty annoyance of increased paperwork. This paperwork will be done. Scientists receiving Government support will continue to seek it even on the less attractive basis. There is in practice little alternative. Would NIH procedures have been changed in quite the same manner if the academic bargaining position were not so weak? This development is not so important in itself. It is significant because it is a sample of what could happen. Congress at this moment has the power through control of funds to alter or to channel activities of the academic scientific establishment. Further evidence that Congress has this power may soon be forthcoming.—P.H.A.

[From Science, Feb. 1, 1963]

GOVERNMENT SUPPORT OF RESEARCH

The legislative process for support of science seems to function best when a spectacular package is involved. Although Congress has attempted to give every encouragement to science over the past decade, there has been particular emphasis on research in medicine, high-energy nuclear physics and, more recently, space. It is almost certain that funds for space research will increase sharply. This is an important frontier, but only one of many. There are negative features of these great spectaculars. The President's request for $98.8 billion is certain to come under attack, but appropriations for defense and space research are unlikely to suffer. Other areas are relatively more vulnerable, and some may receive less money during the next fiscal year. Formerly, when one segment of research was supported on a large scale, other areas also benefited. With search and development appropriations now taking an unprecedented proportion of the national budget, further expansion across the board may not come so easily as in the past.

Another negative feature arises from the fact that the number of competent investigators is limited. The great expansion in space research will in part be accomplished by recruiting workers away from other fields. Many areas of science which have promise of yielding important philosophical and practical results will suffer as talent is withdrawn.

Still another negative feature is a psychological one. Scientists, like other human beings, are affected by fads. They tend to go with the crowd. The research worker who does not go with the crowd encounters a rather bleak climate. He is likely to be regarded by administrators and laymen as an odd fellow who is not in tune with the times. Under this pressure, undue emphasis develops on glamorous areas.

Government policies are shaping academic research in this country, but who in government has as his primary responsibility the duty to give continuing serious thought to the effects—positive and negative—of excessive concentration on a few areas? Support for research should be balanced and should reflect needs and opportunities throughout science. One organization which could be helpful is only sporadically called on. The National Academy of Sciences is broadly representative of the sciences. Its members are drawn from all sections of the country. Unfortunately the Academy has recently had little influence in formulating broad policies with respect to science. The organization has been used principally as an agent to generate still more spectaculars such as the International Geophysical Year. The National Academy of Sciences-National Research Council could serve a broader function, and the Government would be well advised to avail itself of this source of wisdom and experience.—P.H.A.

[From Science, Feb. 22, 1963]

MORE PAPERWORK, LESS RESEARCH

Scientists in all fields should be concerned about a sequence of events during the past year which has adversely affected the grants program of the National Institutes of Health and could be repeated with other agencies. For many years NIH enjoyed a favored status. Congress was against cancer, heart disease, and other ailments and for curing them. The management of NIH has consistently been first class and through the mechanism of study sections the organization has effectively utilized the best judgment of the scientific community.

Policies with respect to grants were excellent and involved minimum paperwork. The program was successful. It attracted the very best talent and led to many practical accomplishments. In addition, fundamental research was successfully fostered, and biology in this country is in the midst of its most flourishing epoch.

The program owed its success to the fact that NIH selected and supported the best investigators and then trusted them. Unfortunately a small minority of scientists betrayed that trust. These few rendered NIH vulnerable to attack by a committee of Congress.

The operations of NIH are monitored by the Intergovernmental Relations Subcommittee of the Committee on Government Operations, House of Representatives. Congressman FOUNTAIN is chairman. One of the activities of this committee is to hold hearings at which testimony is elicited from James A. Shannon and his staff. One of the crucial sets of hearings occurred on March 28, 29, and 30, 1962. The subcommittee had uncovered a situation in which advantage had been taken of the NIH system.

This unfortunate slip was used by the subcommittee to subject Shannon and his aids to an extremely unpleasant 3 days. One instance of mismanagement was given great emphasis, and the excellence of the overall NIH program was overlooked.

The hearings forced an acceleration in changes in NIH policies toward closer control of its grants. The paperwork required for yearly continuations has been substantially increased. Grantees report that they must spend from 1 to 7 days in obtaining information and filling out the form. Since many senior investigators are involved, work on this form will cost the Nation millions of dollars in time lost from research.

Moreover, grantees now must make a special justification to Washington whenever budgetary changes involving items costing over $1,000 are made. To handle this paperwork more bureaucrats must be recruited. Previously the NIH program was staffed with knowledgeable scientists. The new posts can only be filled with administrative types who will not be able to handle scientific problems with confidence. They can only run scared, go by the book, and introduce all kinds of excuses for delay.

The changes will increase inefficiency and delays substantially. If no further demands are made on NIH this price might be justifiable. However, if further controls are required the Nation's health research program could be severely handicapped. It is unfortunate that in order to chastise a few, regulations must be imposed which penalize the many, including some of this Nation's most valuable and productive scientists.—P.H.A.

[From Science, Feb. 15, 1963]

READERS' COMMENTS—CONGRESS AND RESEARCH

I have read with interest your editorial, "Congress and Research," in the January 25 issue of Science. While fully agreeing with your thought that Congress is moving in the direction of giving closer scrutiny to the management of the large and rapidly increasing Federal funds for scientific research, I cannot accept your thesis that this is undesirable.

I find especially open to question your assumption that what you call the increasingly liberal policies pursued by the National Institutes of Health in the past are more beneficial to scientific accomplishment than the more fiscally responsible policies urged by our committee.

When you state: "It has been alleged that the agency is not exercising sufficient control over the expenditure of Government funds," you imply that this finding has not been well documented and established. I am taking the liberty of sending you under separate cover the reports issued by our committee concerning the administration of the NIH grant programs (H. Rept. 321 and H. Rept. 1958 of the 87th Cong.), together with the related subcommittee hearings. These, I believe, amply demonstrated the need for clear and objective Government policies for assuring the most prudent expenditure of public funds as well as the equitable treatment of scientific investigators.

In this same connection I would refer you to the excellent article, also appearing in the January 25 issue of Science, which analyzes irregularities in the handling of National Science Foundation funds by the American Institute of Biological Sciences. These irregularities appear to have resulted from the kind of liberal policies advocated in your editorial.

L. H. FOUNTAIN.

(Representative FOUNTAIN, Democrat, from North Carolina, is chairman of the Intergovernmental Relations Subcommittee of the House Committee on Government Operations. The subcommittee has been extremely critical of the fiscal practices of the National Institutes of Health, and has been the principal source of pressures that have resulted in NIH adopting tighter administrative policies.)

Mr. MORSE. Mr. President, on July 3, 1963, I wrote to a number of Oregon scientists. I ask unanimous consent that my draft letter be printed at this point.

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

JULY, 3, 1963.

DEAR ———: Much concern has recently been voiced to me by recipients of grants under the control of the National Science Foundation and the National Institutes of Health regarding the regulations issued as a result of the criticisms made by the Fountain committee of the House of Representatives.

In order that I may learn first hand from those most immediately affected by these changes, I have taken the liberty of imposing upon you to request a candid and frank appraisal from you of the impact of these changes upon your research operations. You may be sure that I shall treat your replies in a confidential manner.

You can appreciate that the information you provide me will be most helpful to me in my discussion on the floor of the Senate

and with members of the Senate committee at the time the appropriations for the National Science Foundation and the National Institutes of Health are being considered. Attached is a self-addressed return envelope which needs no stamp. Your cooperation in providing me with the desired information is deeply appreciated.

With kindest regards.

Sincerely,

WAYNE MORSE.

Mr. MORSE. Mr. President, The response I received to these inquiries, as was to be expected, varied, but I think it significant that by a ratio of 7 to 1, these able and dedicated men and women expressed their concern over the impact of the policies being applied by the agencies as a result of congressional action.

The case they make can best be expressed in their own words. In the eight letters, which follow, I have deleted the names of the scientists and the institutions in which they are located. I have also, in a few instances removed specific references to the projects discussed by the writer in conformance with my pledge to them that anonymity would be preserved in my use of their replies to me.

Mr. President, I ask unanimous consent that the eight letters to which I have referred at this point be printed in my remarks.

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

JULY 9, 1963.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORSE: This is in response to your July 3 letter of inquiry concerning recent scientific research grant practices. The issues on which you seek to inform yourself touch the quick of a large percentage of scientists. More important than that, they are having a marked impact on higher education.

I hope that you will not be dismayed to hear that the newly instituted "changes" being so widely discussed have had no impact whatever on my research activities. As yet I know of no friend or acquaintance who has been seriously affected by the new regulations either. Most of the complaints have been heard from men employing 'sharp practices' or from administrators who ignored the rules of the agencies. I have heard some complaints from research men in large universities that excessive paper work was now mandatory.

During the year 1959–60 I was [an official in ———]. Among many other things I learned that college and university administrations were neither imaginative nor very responsible in the way they handled research grant matters. The program administrators in Washington are constantly seeking insurance for custody of public funds and finding little response in the universities. Indeed many of the larger universities sent entrepreneurial representatives to promote larger grants.

At the present time, as in the past, scientific investigators resist any moves to vest control of grant funds in the university administration. In theory I quarrel with this, in practice I am bound to say that I am sympathetic. For the most part, money spent by investigators is spent wisely and well. Gross mismanagement is easy for the university to control but it is common to find strict control measures applied only where it will have nuisance value. Any committee such as that headed by Mr. FOUNTAIN can find evidence of inefficient practices if they measure efficiency by dollar standards. Seldom can an investigator adjust scientific exigencies to bargain prices.

It is my opinion that the National Science Foundation has given the investigator the best kind of support possible but this has involved very careful screening of grantees and, on the whole, small grants. NSF has been honest but poor. Some of the scientific entrepreneurs were not too keen for NSF grants because they were not big enough. Undernourishment of the NSF budget has done little to popularize its grant policies. In contrast, money has been showered on NIH. Not only was it possible to get much larger grants but also higher risk proposals could be funded. It seems to me that this is precisely where the colleges and universities failed utterly. Both they and the NIH management delivered their responsibilities into the hands of the study sections composed of scientists. Brilliant as many of them are, they could not be expected to respond to the political climate nor to the thinking of the accountant or budget director.

So far as I can tell NSF policies have not changed, nor is there need to do so. But the funding policies will not support the kind of scientific enterprises fed by NIH. (As one example I might note that activity in [a scientific discipline] here as in many schools is highly dependent on Training Grant funds which come only from NIH. If the Nation is to support research at anything like the present level then real responsibility must be assumed by someone. My own prejudice is that the responsibility should rest squarely on the administration of the university. Unfortunately, our State government, like many others, has almost given up responsibility for research. The budgetary distress may be so acute in many universities that it will be difficult to set up control mechanisms. This is the source of many of the malpractices which distresses Mr. FOUNTAIN's committee.

I cannot know what you consider the important political issue involved but I would like to leave the following thought with you. The institution has today a respectable repertoire of research and some remarkable scientists. There has been excellent cooperation between administration and staff. I think Mr. Fountain would be pleased if he investigated us. But our welfare as a graduate institution rests absolutely on funds from NSF and NIH. It would be wrong to accuse the State of nonsupport but the State funds for research are only a mere fraction of that needed. In short, graduate education in science is at stake because it is inseparable from research. I hope that you will find it possible to support a substantial budget increase for both NSF and NIH and that you will also insist on accountability.

As noted above, it may be very difficult for some institutions to set up a competent staff to discharge grant responsibilities. If that is the case, then I would suggest that you consider the possibility of making Federal grants for this purpose too.

I find it difficult to terminate my answer because there is so much more that needs to be said and must be understood. No doubt it is annoying to you and to many others to find big science pushing its way about Washington. I can only hope that you will continue to try to understand the problems.

Respectfully,

——— ———.

———

AUGUST 1, 1963.

Senator WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORSE: This is a reply to your invitation of July 3, 1963, that I send you a frank appraisal of the impact upon my research operations of the regulations issued recently by the National Institutes of Health.

1. It is very noticeable that I now have to spend considerably more time making sure that the regulations are being followed, particularly when an application for support of research is being prepared. I believe this adds to the cost of the research, and is for the most part, neither necessary nor efficient.

2. The regulations have undergone several modifications. I notice an undercurrent of apprehension that I may have violated some regulation, either because I have forgotten its interpretation, or never noticed that it applied to my particular activities. I find myself wondering whether some years from now a Federal or commercial auditor of my research expenditures may ask me to account for some item which I bought for some reason that seemed good at the time, but which I am likely to have forgotten.

3. As a member (since 1953) of various NIH consultant committees, I had a very high admiration for the way in which the research activity of scientists was being encouraged. I thought it a supreme example of the democratic process at its best, when special abilities need to be encouraged and utilized by the country. I often urged that the widest publicity should be given to these procedures involved.

I now feel that an element of considerable distrust has entered the relationship between grantor and grantee. I watch every step I take in order to make sure I won't be found dishonest by some official at some time in the future, no matter how innocent the error. I am less likely to take a gamble on a new idea that might not lead to anything solid.

4. In summary, the impact upon me of the new regulations is that I give the country less per research dollar granted, I am more cautious than is sensible for a research worker whose contributions should include the novel and the audacious idea or experiment, and I have the strong conviction that far more is lost by the new regulations in money, ingenuity, and originality, than whatever amounts of money may be saved by them.

I hope that a committee of scientists and legislators, of sufficient status and knowledgeability, will be set up to find a better solution for the problem of the rare scientist who is dishonest and for the preservation of the feeling of trust on the part of all the other scientists.

Sincerely yours,

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JULY 30, 1963.

Senator WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORSE: Generally speaking, I think NSF and PHS grants have been very successful in promoting basic research in the United States. I don't know what we scientists would do without this help. Also, generally speaking, grants have been made more on the basis of the researcher's talent and promise than on the basis of the specific problem proposed. This is just as it should be, in order to allow unfettered originality to play its major role in new advances.

I have two serious complaints about recent developments: (a) There is a tendency, especially in PHS, to try to restrict research to the problems outlined in the original proposal. This is ridiculous. The better the scientist; i.e., the more original, the less likely he can predict in advance exactly what he wants to work on next. Support should be primarily for the man, not the problem. (b) Scientists and secretaries now have to waste a lot more of their time filling out silly forms. The more red tape, the less the Government and people get for their research money.

In conclusion, I should point out that my views have been arrived at as a recipient of

NSF and PHS grants, and also as a member of research grant panels of NSF and PHS.

Sincerely yours,

——— ———.

Hon. WAYNE MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORSE: Up to the present I have not observed any untoward effect on my research of the regulations resulting from the Fountain committee's criticisms of NIH administrative policies on research grants. This may be due to a lag between the dissemination of such regulations and their being put into practice.

I read the reports of the Fountain committee shortly after they became available and was more sympathetic to the views of the NIH Administrators, who kept emphasizing in their testimony the need for keeping the research investigator free from unnecessary restrictive administrative procedures, than I was to the bookkeeper approach of the committee. True, a number of loopholes in administrative regulations were revealed which unprincipled individuals could turn to their own advantage. But wouldn't such individuals act in this manner if they were also bound hand and foot with regulations? My general impression is that the number of instances of malfeasance was very low, perhaps much less than occurs in the normal population; university administrators and scientists are probably no more inclined to knavery than are Members of Congress. No substantial argument can be made against eliminating such loopholes in administrative procedure that can lead to abuse of the research grant funds.

What does become a hazard is the imposition of needlessly restrictive regulations, either directly or indirectly, on the researcher. The research scientists tend to be individualists and nonconformists (Anne Roe has reported an interesting study of personal qualities in a group of eminent scientists); I think most of them appreciate and are grateful for the aid given by Federal funds for research. But they will grow resentful of what they consider demands that interfere with the research. Individuals here and there may begin to resort to subterfuges of various kinds to avoid being interrupted by (in their eyes) needless or inconsequential regulations. In this respect I think Dr. Shannon and his staff at the NIH have a better understanding of the way scientists tick than does Mr. FOUNTAIN.

I fear I have given you my personal opinion and general impressions, rather than citing specific results of the new regulations on my research. Should application of the regulations give rise later to what I think may be generally undesirable effects, I shall be glad to write you.

I appreciate your interest and concern in this problem and am certain the scientific community will welcome your discussion of it.

With best regards.

Sincerely yours,

——— ———.

JULY 14, 1963.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORSE: I appreciate the opportunity to express my opinion of the more stringent restrictions now being placed on recipients of NIH and NSF grants.

I feel that Representative FOUNTAIN and his committee have the best of intentions in trying to avoid misuse of the taxpayers' money. I am in entire accord with restrictions that will prevent yearly jaunts to Europe and the furnishing of private clinical offices from funds that were designated for scientific research. Over the 15 years that I have been in academic research I have seen far too much of just such types of dishonesty. On the other hand, I feel that there should be considerable flexibility in the use of funds for hiring scientific personnel and for the purchase of both large and consumable laboratory equipment. This is absolutely essential for following new and significant leads which often arise and should be pursued. Progress cannot tolerate the valuable time, not to speak of enthusiasm, lost in submitting, obtaining, and initiating work on another grant specifically requested for following the new lead.

As you have asked for my personal experience I will take the liberty of citing my own example, since this reply is confidential. Two years ago I received an NIH grant for a specific project. As I changed universities at that time I found that there were neither adequate facilities nor the necessary trained personnel available, so that the project initially could be pursued under far less than full steam. My major work was then directed toward an interesting lead I had come upon, which I was able to investigate with the facilities and personnel available. In that time an experimental system has been achieved in my laboratory whereby the development of a disease has been allayed and deaths considerably reduced. I have, at present, great hopes that this will be tried eventually on human diseases. If the present restrictions had been extant 2 years ago, I would have had the greatest difficulty in following what I consider a most significant lead in ——— therapy.

Thus, while the need for more restrictions in areas where serious violations have occured and can occur may be called for, less stringent controls in the other areas to which I have alluded would be desirable. In this connection, unfortunately, those who are dishonest are also clever and manipulative enough to continue their mode of operation even under the new restrictions, penalizing the honest and dedicated scientist.

May I personally offer you my fullest support and backing for all of your fine work. Since long before coming to Oregon, my wife and I have had the greatest admiration for you as an outstanding statesman and a man of the highest integrity and conviction.

Sincerely,

——— ———.

JULY 16, 1963.

Hon. WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORSE: I have received your letter concerning the new regulations for controlling grants by the National Science Foundation and the National Institutes of Health. I am very glad to have an opportunity to share with you my feelings concerning the issues raised by the Fountain committee of the House of Representatives and the subsequent steps taken to remedy these criticisms.

I am sure that you realize that scientific research, by the very nature of the activity, cannot possibly specify in advance the particular goals and purposes to be accomplished. Research efforts are carried out only into areas of ignorance in order to extend our knowledge of principles and scientific facts. Thus it is impossible to anticipate obstacles, requirements, and outcomes of such endeavors. Unfortunately, these facts suggest at once that the best laid of plans for a research effort can be executed only if by some unusual stroke of luck all the guesses, speculations, and anticipations were to be fulfilled at each step during the development of the project. A second factor inherent in the research endeavor is the fact that basic principles can often be tested in situations, species, or conditions which themselves are trivial. Often the specific situation under which a phenomenon is investigated may sound absurd to the naive observer. It is difficult to understand that progress in the understanding of the development of personality can be made by watching adult college students learn nonesense syllables. Similar problems exist of course in physics, chemistry and other natural sciences.

I have been fortunate to have had support from the U.S. Public Health Service for research activities in ——— since 1954. Since that time we have published a number of papers and found some rather interesting facts concerning the nature of ———, and its possible application to the diagnosis and treatment of ———. During this time there were both "lean" and "fat" years. In several cases our research interests changed when we discovered an apparently important relationship. Frankly, none of this research would have been possible without support from the Public Health Service.

Research activities, at least at our major universities, are not compensated directly by anybody. Most of us have spent our evenings and weekends carrying the usual teaching and administrative loads in addition to our research activities. This is especially true of many young investigators. It means that the individual has to have inherent interests, fascination, and a willingness to sacrifice time and energy in order to conduct such research. There is no doubt that research accomplishments have long-range and intangible personal advantages. These, however, are advantages which are primarily rooted in the deep satisfaction resulting from recognition of one's life work by one's colleagues, in the stimulation of seeing newer and better ways of understanding natural phenomena and the nature of man. I am sure that you are also aware of the fact that in the community of scientists material and financial benefits are not only secondary but sometimes actually looked down upon by one's fellow scientists because of the implication of a material and egocentrically-oriented value system which is totally inconsistent with the work of a scientist. I believe these are among the many reasons why research investigators are not and cannot be expert businessmen or administrators.

The criticisms by the Fountain committee and occasional comments by other members of both the House of Representatives and the Senate have deeply hurt the sensitivities and feelings of many scientists. I have heard comments of this sort by many of my colleagues across the Nation. As scientists we have little to guard but our reputations and our skill in ferreting out new knowledge and bringing it to public attention. We all know that investigators are carefully screened by a procedure which is probably unsurpassed in excellence by any other organization in the country; i.e., the procedures for grant awards by the National Institutes of Health and the National Science Foundation. In most cases investigators hold responsible positions, affecting thousands of people through their teaching, their consulting activities and their participation in civic planning. As a rule, research investigators are not picked at random, they are individuals whose interests, whose life patterns and whose accomplishments have been closely scrutinized. Any implication that these individuals intentionally misuse funds carried with it also the implication that many of our leading citizens are dishonest or willfully misuse their positions in office for personal gains. I am sure that you will agree that such is the case in so small a percentage as to be practically unknown. I have not, in my 10 years of experience in this field, come across one single individual who has been able to complete successfully a graduate education or research training and to hold a position in an academic institution or research organization for any length of time if even the slightest doubt about his intellectual and personal integrity had arisen.

Because of these facts it is extremely difficult for a scientist to defend his research projects to the broad public or more specifically to justify occasional errors in judgment when research efforts are not fruitful and his planning and expenditures of funds did not "pay off."

I want to address myself now specifically to the changes instituted since the recent attacks on the National Institutes of Health. In my own experience I have found that many of the new regulations are time consuming and in the long run result in greater expenditure of both money and effort than was earlier the case. These regulations also represent serious obstacles to engaging freely in activities which investigators would judge as essential to their efforts. Monthly reports of the percentage of time spent by each person on each project, for example, are not only burdensome but literally impossible. Some of our time spent on NIMH research supported projects is spent before going to sleep, while in bed and thinking about research. Many of our so-called "vacations" are spent with colleagues in discussing in a leisurely fashion new ideas and new possibilities. On the other hand, I find that those who work for me work best when I judge their productivity by their results and their involvement in the job rather than in terms of specific hours and minutes spent on it. After all, the products of research activity are not measured in time spent but in ideas produced.

The limitations on budget categories require anticipation of unknown developments. I can present an approximate budget for the next 3 years because of my past experience. I cannot, however, know today what my results on the first series will be. Therefore, I cannot predict the necessities for the purchase of new equipment, the hiring or discharging of research personnel, or the requirement of new facilities or the abandonment of old equipment.

There has been considerable discussion of the utility of travel expenditures for general facilitation of research. In my own experience the best contribution to my understanding of a problem has often come from discussions with colleagues, away from home, at a convention, or at a research meeting. The exchange of ideas, the exposure to activities of other researchers across the country are the very lifeblood of creativity. These exchanges tell us whether we are pursuing a worthwhile goal, what others have found which would markedly reduce energies and expenditures on our own projects. I believe that a misunderstanding of the use of these funds again lies in the fact that there is no tangible final product or process to which we can point when a researcher gains wisdom, insights, or knowledge except in his long-range output.

Since the beginning of the new regulations issued by the National Institutes of Health, in my opinion, there has been an incredible increase in the waste of human talents, moneys and facilities in order to regain a small degree of efficiency in bookkeeping and accounting. I believe the restrictions imposed on NIMH and NSF are similar to hunting squirrels with cannons. The proliferation of personnel to watch other personnel, the resentment engendered by the subtle implication that an investigator is basically dishonest and therefore must be held to account for every decision and single expenditure, all these factors threaten to stifle interest among scientists for support from the Federal Government and to slow down our scientific progress. Personally, I am appalled at the shortsightedness of sacrificing so much for so little. Even granted that the very occasional irregularities could be remedied, I believe that the present cure is worse than the disease.

I want to express my appreciation to you for your interests in this matter and I hope that my appraisal of the situation will be of help to you. I also appreciate your assurance that these comments will be treated in a confidential matter and want to indicate to you that these represent my own personal opinions. I was delighted to learn that this problem has come to your attention and will be following any developments with great interest.

Sincerely yours,

——— ———.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORSE: Thank you for your letter of July 3, 1963. I am very glad indeed to hear that you are taking a serious interest on the grant management at the National Science Foundation and the National Institutes of Health.

In my sincere opinion, the new regulations devised by the research support agencies, particularly the National Institutes of Health, constitutes a major roadblock in developing good research programs in this country. To comply with these regulations, research workers have to spend approximately 10 to 15 percent of their time taking care of the paperwork which has nothing to do with the research operation. In addition, the mental anguish associated with the paperwork is not to be underrated. Every time I read through these regulations I found that they serve as a reminder that I, as a science research worker, am not trusted by the governmental agency. I do not deny that there are cases of research funds being misused by program directors; however, these cases, in reality, constitute only a minute fraction of the overall research programs in the country.

In my opinion, the most serious problem is not the misuse of funds by the research workers, but rather the lack of coordination among the research supporting agencies. Insofar as I know there exists no systematical coordination among the program reviewers of different Federal agencies. In fact, at times, agencies are competing with each other in establishing identical programs.

It is my sincere belief that there is an urgent need to establish a concrete and efficient coordination program among all of the research supporting agencies so that much of the wasteful spending can be eliminated and the progress of scientific research, on a national level, can be expediated.

I thank you very much for giving me this opportunity to express my views in this respect.

With my best regards.

Sincerely yours,

——— ———.

Hon. WAYNE MORSE,
U.S. Senate, Washington, D.C

DEAR SENATOR MORSE: In reply to your letter of July 3, I have several comments which I hope will be of value to you during discussions of appropriations for the National Science Foundation and the National Institutes of Health.

I appreciate the responsibility Congress must feel to assure proper expending of public moneys. It is regrettable in many ways that these two agencies have been singled out. I say this because in terms of adequate evaluation of research proposals these two agencies are known in the scientific world as operating in a most judicious manner. In my experiences with governmental granting agencies, the system of study sections under which these agencies operate is most superior.

It is somewhat early to know exactly what the impact of the new regulations will be. It is apparent that it will be another administrative chore that removes the scientist from the laboratory. The proper execution of a scientific program requires a certain amount of fiscal freedom. This is particularly true in being able to transfer funds, within reason, among various budget categories. Sometimes a particular research program may require more hands and thus a need for transfer of funds to personnel. Another time it may be necessary to purchase supply items more expensive than originally estimated. If too rigid a policy for transfer of funds is imposed, this may necessitate supplemental applications. Since such a course of action may require up to 6 months prior to approval, you can appreciate the lag in some essential research that results.

According to other investigators here and our business office, to date, one of the most time consuming and confusing changes has to do with time estimates. Formerly we reported personnel working on grants only as a budgeted item yearly. Now we have to make quarterly reports of an estimation of actual percent spent by each individual. This means additional reports and has led to a great deal of confusion. It is difficult to see why a budget category estimate and adequate accounting is not sufficient. This only requires minor restrictions as to transfer among categories.

In addition, the pressures on these agencies, I feel, has caused continual administrative changes. These add to confusion and extra expenditures of time. As an example, in the last few months we have been told three different ways to treat overhead: (1) overhead would not be paid on fixed equipment but on movable equipment; then (2) on none; then (3) on items costing less than $500. Since this has occurred after the investigations of the Fountain committee, this is undoubtedly a result of the pressures NSF and NIH are being subjected to.

Again, I understand the necessity of assuring fiscal responsibility on the part of Government agencies.

In recent months the extra burdens being forced on the working scientists have resulted in a lowering of morales with the result of impeding scientific progress. The implications all too often are that all scientists are involved in some kind of "fiscal tricks." Since most university business offices are a rather conservative lot, I really feel that they have and will accept fiscal responsibility. This can best be done under the framework of their policies together with broader and particular restrictions peculiar to the granting agency. This is particularly true at —— where grant funds are treated much the same as State-appropriated funds, and I'm sure you're aware of the close scrutiny these receive.

I hope these comments will be of some value. I am certainly willing to furnish any other information or expand on these comments.

Sincerely,

——— ———.

Mr. MORSE. Mr. President, one specific case was brought to my attention as illustrative of the type of report which some scientists find objectionable. It was set forth in a letter to the Surgeon General by a fine chemist from another State and came to me in connection with my inquiry of the Oregon scientists. I ask unanimous consent that this letter to the Surgeon General dated July 24 be printed at this point in my remarks.

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

JULY 24, 1963.

Dr. LUTHER TERRY,
Surgeon General, Department of Health, Education, and Welfare, U.S. Public Health Service, Bethesda, Md.

DEAR DR. TERRY: In your memorandum of June 12, 1963, addressed to all NIH grantees,

you invited views and comments on the proposed research project grant regulations which appeared in the Federal Register in early June. This letter encompasses both comments and criticism on the present patent policy and I trust that it reaches you before the expiration of the 60-day deadline.

At the outset, I wish to emphasize that I am discussing only research grants and not research contracts. Furthermore, I would like to state that I am in complete agreement with the basic premise of the NIH patent policy, namely, that inventions made under partial or total NIH grant support should not be the subject of patent applications or patents benefiting the investigator or the institution. Having stated these two premises, I would now like to point out that the present patent policy is probably unenforceable in its current form and that it can be pernicious if taken literally. Theoretically and legally, this will enable the Surgeon General to terminate most research grants at will if all administrative procedures are not followed by grantees, since he now has this prerogative. I shall demonstrate below with a concrete experiment that the majority of investigators are definitely violating the patent procedure as it is now defined and that they will be forced to continue to do so, because it is completely impractical. I shall also show that, even if the grantees followed the present regulations literally, the NIH would be in no position to handle the problem.

I am presuming that the chief purpose of the NIH grant program is the development of new knowledge and new capabilities in the health sciences and that such information should be made available to the public. The traditional and proper way of making it public is through the medium of scientific publication. I am assuming further that it is not the primary or even secondary function of the NIH grant program to secure patents on behalf of the Government. Indeed, in the relatively few cases where patents are taken out by the Government, they are made available on a royalty-free basis, thus fulfilling the concept of availability to the public.

Therefore, the only possible justification for patents is to safeguard the public from private individuals or organizations securing patents on the basis of earlier publications describing NIH supported work, since such patent applications could be filed within a year of the publication date, provided certain other conditions were met. I imagine that occasionally such a situation may have arisen in the past and it is conceivable that it might arise in the future. However, if we consider the fact that there are well over 10,000 NIH grants in operation per year and that they give rise to probably a larger number of publications, it is false economy in the extreme to devise a system which will cost us untold millions of dollars in man-years to plug a possible minute loophole. The reason for my concern and for my having performed the specific experiment outlined below, is the following:

Paragraph 52.22 (Inventions and Discoveries) as published in the Federal Register is covered in further detail in section 505 of the "Grants Manual" dated January 1, 1963. The first sentence of section 505, paragraph A, reads: "Department of Health, Education, and Welfare regulations (45 CFR, pts. 6 and 8) provide as a condition that all inventions arising out of the activities assisted by Public Health Service grants and awards shall be promptly and fully reported to the Surgeon General."

This report, according to paragraph C, must take the following form:

"C. Formal reports of invention:

"In respect to inventions reported direct to the Surgeon General for determination under Department regulations, a formal report of invention is required in the nature of answers to 18 questions listed in the Outline for Invention Reports (exhibit 2). The form and other specific instructions for submission of the report will be provided upon request.

"Progress reports, which may include descriptions of inventions, may not substitute for formal reports of inventions."

In other words, in order to prevent the slight possibility that some other investigator may patent work performed by an NIH grantee, all possible discoveries or inventions should be reported to the Surgeon General, who will then decide whether patents should be taken out. If 10,000 to 20,000 publications are produced each year out of NIH supported projects, the possibility then exists that the Surgeon General may wish to protect several thousand or perhaps all of them by patents. In order to be able to decide on this point, he must first have the necessary invention disclosures, which cannot be the usual annual reports of work performed under such grants.

NIH form PHS 3945 (dated March 1962, and now included in every new grant application form) defines an invention in the very broadest terms. In fact, these terms are so broad that, if the criterion of patentability is not left open to the individual investigator, a completely preposterous situation must arise. I shall cite one specific example: According to the present regulations, any invention or discovery (within the broad definition of PHS 3945) must be reported immediately to the Surgeon General. When this is done, the investigator receives by return mail an Outline for Invention Reports, consisting of 18 questions and included as exhibit 2 in the "Grants Manual." I personally have received such a questionnaire. If I were to answer it haphazardly, I could do so in half a day; if I were to answer it in a really proper manner, it would take several days. Only after the investigator has filled out this questionnaire and returned it to the NIH will the legal staff of the NIH decide whether this material is patentable, regardless of whether the investigator wishes to take out a patent or even whether he considers the material patentable.

I maintain that this procedure is not enforcible and would have preposterous consequences if any attempt were made to enforce it. Of the several thousand NIH grants, at least 50 percent are certain to contain some invention or discovery falling within the definition of NIH form PHS 3945. Many of the NIH grants will contain several such inventions or discoveries. Among the grants in chemistry or biochemistry, I would estimate that over 80 percent fall within this category. Any patent lawyer will confirm that the question of "patentability" is very difficult to answer and that the answer depends largely on one's attitude. If one is interested in securing a patent, a patent attorney can make a good case that a given subject is patentable, while the exact reverse can be accomplished if the attorney is trying to prove that a given subject is not patentable. One can estimate conservatively that, of all chemical patents issued yearly by the U.S. Patent Office, 50 to 70 percent would be declared invalid if carried through the courts—the reason being precisely the uncertainty which exists about the definition of a real invention. I wonder whether the Surgeon General is aware of the fact that many patent applications are filed and patents granted in the chemical and pharmaceutical areas that do not include any experimental work at all—all of the work on the invention or discovery being "paperwork" and that such patents are entirely legal under our present system.

With this information as background, I performed the following experiment:

I selected at random only one issue of a chemical journal—the April 1963 issue of the "Journal of Organic Chemistry"—and then picked out all the articles which acknowledged NIH grant support. There were 17 such articles in the April issue. Of these, I could select only three (pp. 900, 1075, and 1086) which I could definitely say did not contain patentable material. In three other instances (pp. 936, 945, and 1128), an excellent case could be made for patentability, including a statement of utility. Of the remaining 11 articles, in 7 (pp. 923, 928, 942, 964, 1098, 1108, and 1119) a good case could be made for patentability and in 4 (pp. 1004, 1015, 1037, and 1041) a weak case.

According to the present NIH rules, 14 of these 17 investigators should have filed an invention record and subsequently answered the 18 questions of the Outline for Invention Reports. Reckoned conservatively in man-hours, this would require 1 to 2 months. But the real work would start only when the NIH legal staff received these documents and started wading through them. I would estimate that this experiment would have to be multiplied at least several hundredfold each year to cover all relevant grants and that the NIH would require a legal staff which would have to be much larger than the examining staff of the U.S. Patent Office. It would also involve several hundred man-years of investigators' time to handle all the reports, answers, etc., and it should be remembered that the most productive investigators are those with several collaborators, who very likely have many such invention reports each year at various stages of processing.

To complete the above-outlined small experiment from the April 1963 issue of the "Journal of Organic Chemistry," I recommend that the Surgeon General put a member of his staff on the job of checking the seventeen grants to determine whether any invention statements have been filed. The chances are excellent that he will find none. The chances are poor that he will find two or three and the probability is infinitesimal that he will find even 10—let alone the experimentally determined 14 which would be required.

Does this mean that all of these investigators are dishonest, that they are using NIH funds without fulfilling regulations, that they are filing patents surreptitiously? The answer is that the present patent policy is impractical and unenforceable because it cannot be practiced—either by the investigators (who would end up having little time for research if they followed literally the patent regulations) or by the NIH (which does not have even a fraction of the legal staff necessary to handle hundreds of such reports annually). I conclude, therefore, that the patent policy should be changed, before an uproar is raised by some uninformed individual, because it is poor administration and ineffective procedure to have a regulation on the books which no one can follow. The only purpose I can see in it is that it now gives the Surgeon General a means of terminating a grant in midair by pointing out that a grantee has not followed an administrative regulation.

I recommend that the patent policy be simplified and adapted to the de facto situation:

(a) No patents are to be filed by any NIH grantee unless he proceeds in the manner outlined in the present patent policy—section 505, paragraph A.

(b) But, if the NIH grantee does not intend to file a patent application, no specific report should be required of him, his annual progress report and the eventual publications representing sufficient evidence that he has complied with the spirit in which the grant was made.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, PUBLIC HEALTH SERVICE, NATIONAL INSTITUTES OF HEALTH, BETHESDA, MD.—DEFINITION OF TERMS USED IN ANNUAL INVENTION STATEMENT

(From PHS 3945, March 1952)

Definition of an invention: Any process, art or method, machine, manufacture, or improvement thereof may constitute an invention if it is new and useful, and would not have been obvious to a person having skill in the art to which it relates. A "process" may be either a connected series of steps of a new use of a process, machine manufacture, or composition of matter, in a patent sense; the word "new" has a broader meaning than it has in common usage. The usual test of novelty applied by the Patent Office is the novelty search in which available printed matter is consulted to find if there is a previous description of the invention claimed. This search brings forth prior published knowledge. Any reference prior to the patent application is considered by the Patent Office to be prior art. A description published more than 1 year prior to the date of an application for patent constitutes a statutory ban to patenting. Prior unpublished experiment uses, abandoned experiments, or lost arts are not proper references.

An invention is useful in a patent sense if it is capable of performing some beneficial function.

Conception of the invention: An invention begins with its mental visualization or conception. However, the conception must be complete and include the result as well as the means for bringing about that result. Because the conception is a mental process, it must be communicated to others who understand it before it can be proved satisfactorily. The date of conception is the earliest date to which an inventor can be entitled for priority purposes. If the inventor can demonstrate reasonable continuous diligence in carrying out (constructing and testing) the conceived invention, for purposes of priority, he may be considered as having made the invention when he began the continuous diligence. If this diligence began immediately after conception, then the date to which the inventor is entitled is the date on which the invention was conceived.

Reduction to practice of the invention: The act of transforming an inventive concept into physical reality (construction and testing) is referred to as "reduction to practice" of the invention. The general rules of reduction to practice for the four most important classes of invention are:

1. For a process, when it is successfully performed, this normally requires a test of results to demonstrate the success.

2. For a machine, when it is assembled and tested or used.

3. For an article of manufacture, when it is completely manufactured and tested or used.

4. For a composition of matter, when it is completely composed and tested or used.

Mr. MORSE. Mr. President, I have discussed this matter briefly because in my judgment, the matter is one which will arise in the future with increasing warmth. I caution only that in our desire to achieve the greatest results with the least expenditure we do not defeat our objective of meaningful research. Such a policy would be prohibitively expensive in the long run. Research, that is to say basic research, is still to a degree a matter of serendipity, as shown by the discovery of penicillin, and it can be carried on successfully when it is least hampered by the bureaucratic process of supervision and control. In my view, the return from a research program which wiped out a major disease would pay for all the research ever carried on in the past three centuries or more. I would hope, therefore, that in the regulations which are made by agencies, care will be taken that the research itself be not stultified. Far better for us to appropriate even more money to pay for administrative overhead to cross the "t's" and dot the "i's" of the researcher.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1964

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 358, H.R. 5888, the appropriation bill for the Departments of Labor, and Health, Education, and Welfare, and related agencies, and that it be made the pending business.

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

The motion was agreed to, and the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. MANSFIELD. Mr. President, if the Senator from Alabama, chairman of the subcommittee, will yield briefly to me, I wish to make an announcement.

It is my understanding that the distinguished Senator from Alabama [Mr. HILL] will speak on the bill today. I further understand that it is quite possible an amendment will be offered, but only for the information of the Senate. There will be no voting today on this measure or on other measures. The remainder of the day will be taken up with a discussion of the bill and with other matters.

ORDER FOR ADJOURNMENT UNTIL NOON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the business for today has been completed, the Senate adjourn until 12 o'clock noon tomorrow.

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

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1964

The Senate resumed the consideration of the bill (H.R. 5888) making appropriations for the Departments of Labor, and Health, Education and Welfare, and related agencies, for the fiscal year ending June 30, 1964, and for other purposes.

Mr. HILL. Mr. President, the bill, H.R. 5888, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1964, and for other purposes, as reported to the Senate by the Committee on Appropriations, totals $5,494,627,250, an increase of $44,646,250 over the amount of the bill as passed by the House; a decrease of $77,345,350 from the appropriations for 1963; and a decrease of $264,861,750 from the budget estimates for fiscal year 1964. The one item for grants to States for public assistance, $2,725 million, amounts to 49.592 percent of the total, approximately one-half of the total.

For the Department of Labor, the committee recommends a total of $350,005,250, a decrease of $34,878,750 from the House allowance. The committee voted reductions, minor in amount, in five items in each of which employees were added by the respective Bureau over the number allowed by the Congress last year without checking with the Congress. It is hoped, and expected, that there will be no recurrence of this—the committee must expect the Department and its Bureaus to abide by the allowances or request permission to deviate therefrom.

The significant changes in the Department of Labor are in the Office of Manpower, Automation, and Training, and in the Bureau of Employment Security. The committee voted to reduce the House allowance by $30 million for "Manpower development and training activities," from $140 million to $110 million for the reasons set forth in our report, an allowance deemed to be entirely adequate to fulfill the program authorized by present law. For the "Area redevelopment activities," the committee reduced the House allowance by $1 million based on the past year's experience.

For the item "Grants to States for unemployment compensation and employment service administration," the committee voted an increase of $75 million, from $350 to $425 million, over the House allowance. The House had cut the estimate from $432,570,000 to $350 million because at the time it acted the annual authorization was only $350 million. Since the passage of the bill by the House, the Congress has amended the authorization, from the specific sum of $350 million to an indefinite one, 95 percent of the revenue to be derived from the Federal Unemployment Tax Act in fiscal year 1964, some $460 million. The Congress allowed $400 million for fiscal year 1963, and there was available an additional $12 million carried over from the prior year. So that the committee allowance is approximately $13 million over the funds available in the prior year. Our committee report states this allowance "makes no provision for the increase sought, $5,089,000, for continuing the improvement for the employment service, and $1,700,000 sought for improvements in unemployment insurance operations," the latter under proposed legislation. These funds are, of course, derived from the unemployment trust fund into which is deposited the net receipts from the Federal Unemployment Tax Act, and are available only for the employment security program.

Another significant change is the combining of the Office of Welfare and Pension Plans and the Bureau of Labor-Management Reports into the Office of Labor-Management Relations Services, resulting in a savings of $160,000 and 25 positions.

For the Department of Health, Education, and Welfare, the committee recommends a total of $5,114,367,000, an increase of $66,833,600 over the House allowance, but a decrease of $186,947,000 from the budget estimates. The funds for grants to States for public assistance, $2,725 million, account for 53.28 percent of the total for the Department.

The committee approved the total amount sought by the Food and Drug Administration for its operating expenses, $35,805,000, an increase of $6,740,300 over the 1963 appropriation, but expressed its discontent with the management of the program and asked for a report by January 1, 1964, on what steps had been, or would be, taken to strengthen management.

For the Office of Education, the committee approved a total of $432,793,000, a decrease of $8,500,000 from the House allowance and $16,860,000 from the budget estimates, and a decrease of $219,361,000 from the 1963 appropriation. The expiration of entitlement of the so-called b children under Public Laws 815 and 874 as of June 30, 1963, of course, accounts for the major reduction under the prior year's appropriation.

For the Vocational Rehabilitation Administration, the committee approved the budget estimate, $131,435,000, an increase of $6,020,000 over the House allowance, and $28,509,000 over the 1963 appropriation. The product of this program is the rehabilitation of the maimed, the crippled, the handicapped, and their return to useful lives, and the committee felt that nothing should be done to impede the work.

For the Public Health Service, the committee recommends a total of $1,628,158,000, an increase of $82,100,000 over the House allowance, $30,274,000 over the budget estimate, and $113,298,950 over the 1963 appropriation. For the National Institutes of Health, the committee recommends allowance of the budget estimates, $930,454,000, or $18 million more than the House allowance.

The principal item of increase in the Public Health Service is the "Hospital construction activities"; the committee again recommends allowance of the full authorization for part C, the original Hill-Burton program, $150 million, as well as the full authorization for part G, $70 million. For fiscal years 1959–63, the Congress has appropriated the full amount authorized, $150 million, for the general hospital program, for which budget estimates were $99, $79, $95, $125, and $100 million, respectively, and the committee feels that the need for general hospital beds is still acute and, accordingly, recommends $150 million in lieu of the sum proposed and allowed by the House, $100 million.

The committee approved the addition of $2.5 million for "Buildings and facilities," for which there was a budget estimate, for the construction of the Alaska Regional Water Pollution Control Laboratory.

The committee also allowed $1,441,000 for the Environmental Health Center, to be located in the Washington environs as requested by the President in his budget and in his health message, and at Beltsville, Md., in accordance with the testimony of Secretary Celebrezze, the Surgeon General, and the Assistant Surgeon General, following the recommendations of sundry groups, including the group led by Dr. Paul Gross of Duke University.

The committee added $5 million, for which there was a budget estimate, for the initiation of work to rid our land of the mosquito which carries yellow fever, in keeping with our country's pledge to our neighbors in the Western Hemisphere.

The committee restored the $2 million reduction in the general health grant to States, utilized by the States for basic health needs of its citizens, and which has been allowed at the $15 million level for 6 years.

The committee restored the House cut of $2,059,000 for the comprehensive water pollution river basin studies. The availability of water resources is a growing problem and the committee did not wish to impede the orderly forward steps being made.

For the Social Security Administration, the committee concurred in the House allowance of the original budget estimate, and provided for the use of the contingency fund to meet additional costs arising from certain personnel reclassifications.

For the Welfare Administration, the committee voted two changes—one to add $500,000 for the administrative expenses of the Bureau of Family Services, and the second to reduce the allowance for the day care services of the Children's Bureau from $8 to $4 million, with a requirement that the State and local jurisdictions pay one-half of the cost of operating the day care services.

The committee recommended funds to finance, under the supervision of Secretary Celebrezze, a study of the education of the deaf, with particular emphasis on the admission policies and operation of Gallaudet College. It is anticipated that this study will be of great benefit to the college.

The committee added $500,000 to the House allowance for the National Labor Relations Board, a reduction of $500,000 under the budget estimate, but $1,531,000 over the 1963 appropriation.

The supplemental estimate for $215,000 was allowed for the Railroad Retirement Board to finance certain personnel reclassifications approved by the Civil Service Commission recently. These funds are, of course, derived from the railroad retirement account.

The committee restored the $100 per diem for the National Mediation Board and the Federal Mediation and Conciliation Service for the temporary employment of referees and labor relations experts. The committee also added $200,000 over the House allowance for the Federal Mediation and Conciliation Service, a reduction of $200,000 from the budget estimate, but $544,700 over the 1963 appropriation.

Mr. President, I ask unanimous consent that the amendments of the committee, except the amendment on page 43, beginning on line 15, be agreed to en bloc, and that the bill as so amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

Mr. DIRKSEN. Mr. President, will the Senator from Alabama state the last proviso of his request?

Mr. HILL. Provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Is there objection? The Chair hears none; and it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 8, to strike out "$16,485,000" and insert "$16,205,000".

On page 2, line 20, after the word "affairs", to strike out "$882,000" and insert "$842,000".

On page 3, line 8, to strike out "$140,000,000" and insert "$110,000,000".

On page 3, line 13, to strike out "$9,000,000" and insert "$8,000,000".

On page 4, line 7, after the word "than", to strike out "$12,640,000" and insert "$12,400,000".

On page 5, line 11, after "(68 Stat. 1130)", to strike out "$350,000,000" and insert "$425,000,000"; in line 14, after the word "fund", to insert "and of which $15,000,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant (or the allocation for the District of Columbia) was based, which increased costs of administration cannot be provided for by normal budgetary adjustments"; and on page 6, line 8, after the word "offices", to insert "during fiscal year 1964 and that any portion thereof not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived".

On page 9, line 5, to strike out "$870,000" and insert "$1,387,250, of which $517,250 shall be available only upon enactment into law of S. 1703, Eighty-eighth Congress, or similar legislation".

On page 9, line 14, after the word "laws", to strike out "$1,135,000" and insert "$2,048,500", and in line 16, after the word "fund", to insert a comma and "and of which $913,500 shall be available only upon enactment into law of S. 1703, Eighty-eighth Congress, or similar legislation".

On page 10, line 8, to strike out "$790,000" and insert "$784,000".

At the top of page 11, to strike out:

"OFFICE OF WELFARE AND PENSION PLANS

"Salaries and expenses

"For expenses necessary for performing the functions vested in the Secretary by the Welfare and Pension Plans Disclosure Act, as amended (72 Stat. 997; 76 Stat. 35), $1,565,000."

On page 11, after line 6, to strike out:

"BUREAU OF LABOR-MANAGEMENT REPORTS

"Salaries and expenses

"For expenses necessary for the Bureau of Labor-Management Reports, $5,900,000."

On page 11, after line 10, to insert:

"OFFICE OF LABOR-MANAGEMENT RELATIONS SERVICES

"Salaries and expenses

"For necessary expenses to carry out the provisions of the Welfare and Pension Plans Disclosure Act, as amended (72 Stat. 997), the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519), expenses of commissions and boards to resolve labor-management disputes and other expenses for improving the climate of labor-management relations, $7,500,000."

On page 11, line 24, after the word "Board", to strike out "$4,285,000" and insert "$4,275,000".

On page 13, line 1, after the figures "$53,838,000", to insert a comma and "together with such amount as may be necessary to be advanced from the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to March 31 of the year".

On page 14, at the beginning of line 6, to strike out "$4,570,000" and insert "$4,420,000".

On page 14, line 12, after the word "Labor", to strike out "including expenses of commissions or boards to resolve labor management disputes, $2,364,000" and insert "$2,269,000".

On page 14, line 20, to strike out "$4,000,000" and insert "$150,000".

On page 15, line 20, after the word "services", to strike out "$4,347,000" and insert "$4,670,000".

On page 19, at the beginning of line 6, to strike out "$229,620,000" and insert "$219,620,000", and in line 10, after the word "contributions", to strike out "$54,000,000 shall be for grants to States and loans to nonprofit private schools for science, mathematics, or modern foreign language equipment and minor remodeling of facilities, $3,750,000 shall be for grants to States for supervisory and other services" and insert "$47,750,000 shall be for grants to States and loans to nonprofit private schools for science, mathematics, or modern language equipment and minor remodeling of facilities and for grants to States for supervisory and other services: *Provided*, That allotments under sections 302(a) and 305 for acquisition of equipment and minor remodeling shall be made on the basis of $47,520,000 for grants to States and shall be made on the basis of $6,480,000 for loans to private, nonprofit schools, and allotments under section 302(b) for supervisory and other services shall be made on the basis of $3,750,000".

On page 21, after line 8, to insert:

"EXPANSION OF TEACHING IN EDUCATION OF THE DEAF

"For grants to public or other nonprofit institutions of higher education for courses of study and scholarships for training teachers of the deaf, $1,500,000: *Provided*, That this paragraph shall be effective only upon enactment into law of section 301(c) of S. 1576, Eighty-eighth Congress, or similar legislation."

On page 24, line 4, after the word "Act", to insert a comma and "and for carrying out the functions of the Office of Vocational Rehabilitation under the International Health Research Act of 1960 (74 Stat. 364)", and in line 6, after the amendment just above stated, to strike out "$31,810,000" and insert "$36,830,000".

On page 24, at the beginning of line 14, to strike out "$2,000,000" and insert "$3,000,000".

On page 25, line 20, after the word "rates", to strike out "established by the Surgeon General not to exceed $19,000 per annum" and insert "not to exceed the maximum rate provided in section 208(g): *Provided*, That section 208(g) of the Public Health Service Act, as amended (42 U.S.C. 210(g)), is amended by striking out 'the highest rate of grade 18 of the General Schedule of such Act', and inserting in lieu thereof '$30,000'."

On page 26, line 8, after the word "sites", to strike out "$13,811,000" and insert "$16,311,000".

On page 26, after line 9, to insert:

"ENVIRONMENTAL HEALTH CENTER

"For plans and specifications for an Environmental Health Center to be constructed on land to be made available by the Department of Agriculture at the Agricultural Research Center at Beltsville, Maryland, $1,441,000, to remain available until expended: *Provided*, That $785,000 of unobligated balances heretofore appropriated under the heading 'Buildings and facilities', Public Health Service, shall be merged with this appropriation."

On page 28, line 5, after the word "aircraft", to strike out "$25,405,000" and insert "$30,405,000".

On page 28, line 11, to strike out "$28,608,000" and insert "$30,608,000".

On page 28, line 14, after the word "which", to strike out "$2,006,000" and insert "$1,606,000", and in line 20, after the word "than", to strike out "$2,500,000" and insert "$2,900,000".

On page 30, after line 1, to strike out:

"To carry out the provisions of title VI of the Act, as amended, $177,914,000, of which $100,000,000 shall be for grants or loans for hospitals and related facilities pursuant to part C, $5,628,000 shall be for the purposes authorized in section 636, and $70,000,000 shall be for grants or loans for facilities pursuant to part G, as follows: $20,000,000 for diagnostic or treatment centers, $20,000,000 for hospitals for the chronically ill and impaired, $10,000,000 for rehabilitation facilities, and $20,000,000 for nursing homes: *Provided*, That allotments under such parts C and G to the several States for the current fiscal year shall be made on the basis of amounts equal to the limitations specified herein: *Provided further*, That funds made available under section 636 for experimental or demonstration construction or equipment projects shall not be used to pay in excess of two-thirds of the cost of such projects as determined by the Surgeon General."

And in lieu thereof, to insert:

"To carry out the provisions of title VI of the Act, as amended, $228,214,000, of which $150,000,000 shall be for grants or loans for hospitals, and related facilities pursuant to part C, $5,928,000 shall be for the purposes authorized in section 636, and $70,000,000 shall be for grants or loans for facilities pursuant to part G: *Provided*, That funds made available under section 636 for experimental or demonstration construction or equipment projects shall not be used to pay in excess of two-thirds of the cost of such projects as determined by the Surgeon General."

On page 32, line 9, after the word "health", to strike out "$4,590,000" and insert "$4,990,000, of which $500,000 shall be available for the continuation of the study of pulmonary diseases of coal miners".

On page 32, line 19, after the word "aircraft", to strike out "$18,745,000" and insert "$19,145,000".

On page 33, line 5, after "(33 U.S.C. 466–466d, 466f–466k)", to strike out "$27,921,000" and insert "$29,980,000", and at the beginning of line 9, to insert "and of which $500,000 shall be available for the comprehensive study of the Upper Ohio River basin."

On page 33, line 13, after the figures "$90,000,000", to insert a colon and the following provisos: "*Provided*, That allotments under such section 6 for the current fiscal year shall be made on the basis of $100,000,000: *Provided further*, That none of the sums allotted to a State shall remain available for obligation after December 31, 1964."

On page 35, line 14, after the word "research", to strike out "$163,869,000" and insert "$164,674,000".

On page 36, line 30, after the word "Act", to strike out "$144,340,000" and insert "$145,114,000".

On page 37, line 7, after the word "diseases", to strike out "$177,288,000" and insert "$190,096,000".

On page 37, at the beginning of line 12, to strike out "$132,404,000" and insert "$133,624,000".

On page 37, line 22, to strike out "$19,689,000" and insert "$19,809,000".

On page 38, line 4, after the word "diseases", to strike out "$113,679,000" and insert "$114,717,000".

On page 38, line 8, after the word "diseases", to strike out "$68,723,000" and insert "$69,226,000", and at the beginning of line 9, to strike out "$250,000" and insert "$350,000".

On page 38, line 14, after the word "blindness", to strike out "$87,675,000" and insert "$88,407,000".

On page 41, line 14, after the word "necessary", to insert "to meet the costs of certain personnel reclassifications as set forth in Senate Document No. 19, Eighty-eighth Congress, and".

On page 42, line 22, after the word "Services", to strike out "$4,756,000" and insert "$5,256,000".

On page 43, line 3, after "(42, U.S.C. ch. 7, subch. V; 74 Stat. 995–997)", to strike out "$86,943,000" and insert "$82,943,000"; at the beginning of line 6, to strike out "$33,000,000" and insert "$29,000,000".

On page 45, at the beginning of line 4, to strike out "$7,000" and insert "$14,000", and in line 5, after the word "expense", to strike out "$88,000" and insert "$95,000".

On page 45, after line 7, to strike out:

"For expenses necessary for the Office of the Commissioner of Social Security, $1,025,000, together with not to exceed $554,000 to be transferred from the Federal old age and survivors insurance trust fund."

And in lieu thereof, to insert:

"For expenses necessary for the Office of the Commissioner of Welfare, $1,025,000."

On page 47, line 19, after "(Public Law 420)", to insert "and not to exceed $100,000 for necessary expenses of carrying out, under the supervision of the Secretary of Health, Education, and Welfare, a study of the education of the deaf,", and in line 22, after the amendment just above stated, to strike out "$1,697,000" and insert $1,822,000".

On page 48, line 7, after the word "supervision", to insert "if so requested by the College".

On page 50, line 9, after the word "therewith", to strike out "$6,700,000" and insert "$6,950,000".

On page 50, line 19, after the word "expended", to strike out "$5,000,000" and insert "$7,000,000".

On page 51, after line 13, to strike out:

"SEC. 203. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of a research project an amount for indirect expenses in connection with such project in excess of 20 per centum of the direct costs."

On page 51, line 19, to change the section number from "204" to "203".

On page 52, line 9, after the word "laws", to strike out "$22,060,000" and insert "$22,560,000".

On page 53, line 7, after the word "of", to strike out "$75" and insert "$100".

On page 53, line 13, after the word "Board", to strike out "$10,900,000" and insert "$11,115,000".

On page 53, line 23, after the word "Act", to insert "temporary employment of arbitrators, conciliators, and mediators on labor relations at rates not in excess of $100 per diem;", and on page 54, line 6, after the word "maintained", to strike out "$5,540,000" and insert "$5,740,000".

On page 56, line 8, after the word "for", to strike out "entertainment, not otherwise

provided for, of officials, visiting scientists, and other experts of other countries" and insert "official reception and representation expenses, not otherwise provided for."

On page 56, after line 11, to strike out:

"SEC. 906. None of the funds appropriated in this Act shall be used to conduct or assist in conducting any program (including but not limited to the payment of salaries, administrative expenses, and the conduct of research activities) related directly or indirectly to the establishment of a national service corps or similar domestic peace corps type of program."

Mr. HILL. Mr. President, I ask that the Chair lay before the Senate the amendment which I excepted, which is the amendment on page 43, beginning at line 15.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On line 15, after the word "children", it is proposed to insert a colon and the following additional proviso:

Provided further, That none of the funds contained herein shall be used to pay in excess of one-half of the cost of day care services under section 527(a) of the Social Security Act, as amended.

Mr. RIBICOFF. Mr. President, will the Senator from Alabama yield?

Mr. HILL. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Connecticut without losing my right to the floor.

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

Mr. RIBICOFF. Mr. President, I oppose the committee amendment. The purpose of this amendment is to add a provision that State and local jurisdictions pay at least one-half the costs of day care services included under a State's child welfare services plan.

I can well understand the committee's concern that some provision be made for a requirement that matching funds be put up by the States and localities, to entitle them to Federal funds for day-care services. The authorizing legislation does not contain such a requirement. I certainly have no objection to the principle of a requirement of matching funds, but I believe there are several reasons why the committee amendment is inappropriate and should not be added.

First. There already is a requirement that States match Federal funds for child welfare services, of which day-care funds are a part. Under title V, part 3, of the Social Security Act, the State share of Federal-State funds for child welfare services ranges from one-third to two-thirds. This is the share the States must now put up, in order to obtain Federal funds for child welfare services. The 1962 Public Welfare Amendments authorized day-care services as a part of child welfare services, but the 1962 amendments did not change in any way the existing matching funds requirement.

For example, consider a State which must pay one-third of the Federal-State total for child welfare services. If the Federal allotment is $100,000, the State must put up $50,000. Let us assume that under this bill this State's allotment of Federal day-care funds is $10,000. Under existing law, without the committee amendment, the State would still have to put up an additional $5,000, bringing its share to $55,000. But the State money could be used for child welfare services generally, rather than being specifically earmarked for day-care services.

But under the committee amendment even though the same State puts up $55,000 or more to match the $110,000 of Federal money, it would still not be entitled to $1 of Federal day-care funds. To get these funds, the State would have to put up an extra $10,000, more than its normal share, and earmark these added funds specifically for day-care services.

Second. Not only are the States already matching Federal child welfare funds, they are actually putting up 10 times the amount required of them by Federal law. To be entitled to fiscal 1963 allotments, the States would have to put up $24 million. It is a fact that fiscal 1962 expenditures by the States were $228 million, more than 10 times the matching requirement. This excess matching by the States is true not only in the aggregate, but occurs in nearly every State. Of the 50 States, 47 have spent substantially more than was required to entitle them to funds for child welfare services. Thus, there is no need for imposing this extra requirement which the committee proposes to add.

Third. The effect of the committee amendment would be completely to deny day-care funds to 44 States, and to sharply cut back the allotment to 5 other States. The reason for this is that only six States, in appropriating funds for child welfare services, have specifically earmarked funds for day-care services as required by the committee amendment; and only one of these States has earmarked enough funds to match its full Federal allotment.

Yet the States have proceeded in good faith on the basis of the 1962 public welfare amendments, which did not require the dollar-for-dollar specific matching requirement now proposed by the committee. These States have appropriated their funds for child welfare services; and in many cases the legislatures have adjourned, and will not meet again until 1965.

Fourth. An important change of this sort in the financing formula should not be made in an appropriation bill. Possibly the change here proposed by the committee is subject to a point of order; but I prefer to put the question before the Senate and let the Senate decide whether, in view of the points I have presented, it would be better not to add this change to an appropriation bill, but to consider it subsequently as an amendment to the authorizing legislation. At such time, the Finance Committee could give the States an opportunity to be heard on this change. The Finance Committee could also consider whether any new matching requirement should use the same ratios as those provided in existing law, or should adopt the 50–50 requirement now suggested for the first time by the Appropriations Committee.

Mr. President, I shall not take the time of the Senate to argue the pressing need that exists for day-care funds. The committee itself has recognized that need by recommending $4 million for this purpose. But I do urge the Senate to realize that unless the committee's amendment is omitted, the need will go almost entirely unmet, this year; and, in many instances, next year, too. The States are already putting up more than 10 times the share required of them by Federal law. I see no reason to impose, in an appropriation bill, a new and added matching requirement which we know the States will not be able to meet.

Mr. CLARK. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I yield.

Mr. CLARK. I commend the Senator from Connecticut for raising this point. All the arguments he has made in support of his position are applicable to the Commonwealth of Pennsylvania. I had been asked by the Governor of my State—who happens to be a Republican—and by his secretary of welfare to support the position of the Senator from Connecticut in this regard. This I am happy to do.

I very much hope that the Senator from Alabama will be influenced by the eloquence of the Senator from Connecticut, and perhaps will be persuaded to accede to his request.

Mr. HRUSKA. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I yield.

Mr. HRUSKA. Mr. President, I compliment the Senator from Connecticut on his very fine analysis of this problem.

At the committee's sessions, we were informed that the States do not need to have State and local funds especially earmarked for day-care services under the terms of their legislative authority; and on page 68 our report so states.

It is my information that many of the States, notwithstanding a lack of express legislative action, would find it possible to meet the matching that would be required by this amendment. In my judgment, it could be done in a variety of ways. However, I do not intend to pursue that matter too far at this time, because I know that the Senator from Connecticut, with his experience as a member of the Cabinet, as well as his experience as the Governor of his State, is quite knowledgeable on this subject.

Nevertheless, I should like to say that it was our considered judgment in the committee—as is evidenced by the fact that we approved this amendment—that it is imperative that the States participate in the day-care program, as we have done in many other programs, in order to improve its administration and insure the economic and orderly management of the program. These ends can be best achieved by means of such participation.

I state frankly, that many apprehensions were expressed that in this particular program there is a potential for growth which eventually might militate against its continuation. It is quite obvious that without some restrictions or other means similar to those we have adopted, the cost of the program might reach astronomical figures.

I read from the statement by Mrs. Oettinger, Chief of the Children's

Bureau, delivered before our committee hearing:

There are about 15 million children under 18 years of age in the United States whose mothers are working—4 million of these children are under 6 years of age, and 5 million are between the ages of 6 and 11. A 1958 survey showed that over 400,000 children under 12 had no plans for their care, and were expected to care for themselves while their mothers worked full time. Yet, only about 185,000 children can now be cared for in licensed day-care facilities throughout the United States.

Mr. President, it struck many of us that in this very large field there are demands for additional appropriations which in a very short time could become almost unbelievable in size. That is very well illustrated by the fact that the original appropriation for this program was $800,000, whereas now we have a request, approved by the House, for $8 million, which the Senate committee has voted to reduce to $4 million.

I should like to ask the Senator from Connecticut what would be his judgment as to the desirability, in timely and considered fashion, of adopting the concept of State participation in a program of the kind proposed?

Mr. RIBICOFF. In reply to the senior Senator from Nebraska, I should first like to thank him for his gracious remarks. I do not believe I know any more about the subject than does the distinguished Senator from Nebraska. As Governor and as Secretary of the Department of Health, Education, and Welfare, I was involved a little more with it.

I agree with the Senator from Nebraska that it probably would be advisable to have a specific matching formula. In due course, if it would be the desire of the Senator from Nebraska specifically to insert a matching formula in the future, I would support him in that desire. But what bothers me at the present time is that the States that did not have in their laws a specific matching formula would find themselves completely without day-care funds.

The committee has made provision for $4 million for that purpose. Yet 44 States out of the 50 States could not take advantage of the provision because the legislatures of most of those States have gone home without having enacted an appropriate measure.

For example, we might consider the position expressed by the distinguished Senator from Pennsylvania [Mr. CLARK], who received a request from the Governor of his State. The State of Pennsylvania would be required to match, under State welfare services, $1,337,650. The State of Pennsylvania has been very solicitous and concerned about the problems of children. The legislature of Pennsylvania has provided appropriations in the amount of $19,604,811. In other words, the legislature has gone $18 million beyond the Federal matching requirements. But when the legislature in Pennsylvania met—and the same situation prevails in the State of Connecticut—since there was no specific requirement for matching funds, the legislature appropriated general funds, and therefore they would find that even though they had been generous in the program, they would no longer be in a position to take advantage of the Federal grant.

Under those circumstances it would be unfair to Pennsylvania; in my opinion it would also be unfair to Nebraska, Alabama, New Hampshire, Connecticut, and all 44 States.

Mr. CLARK. Mr. President, will the Senator yield for a comment?

Mr. RIBICOFF. I yield.

Mr. CLARK. The Pennsylvania legislature adjourned last Friday. We are "stuck."

Mr. RIBICOFF. Most State legislatures have adjourned. Most States would be "stuck."

Should it be the desire of the committee to put the proposed program in effect in 1965, when most legislatures will be in session, and if the legislatures then know that with respect to the 50 States there is a specific matching requirement, the State legislatures could make provision for specific matching of funds to take care of what the Senator from Nebraska seeks to accomplish in accordance with the philosophy expressed by the distinguished Senator from Nebraska.

If that should be the case in 1965, when the States would be on notice and the legislatures again meet, I would certainly support the position of the distinguished Senator from Nebraska, because I believe that it is good government and good policy that there should not be merely a Federal largesse to the States. I believe we would get better and sounder administration and better care if the States were required to match Federal grants.

I believe that what the committee has sought to accomplish is praiseworthy. The only reason I have raised the point is that at present the proposal would frustrate the basic objective. The $4 million that we would seek to make available could not be used by the States even though the States should desire to take advantage of it.

Mr. HRUSKA. Does the Senator from Connecticut also agree that in instances in which States might participate in a program of the kind proposed there would be more incentive for them to limit the program to cases truly in need and demonstrably within the class that should be provided for by means of a program of the type proposed?

Mr. RIBICOFF. I agree with the Senator. The Committee on Finance would certainly discuss and consider the proposal. As a member of the Finance Committee, I say to the distinguished Senator from Nebraska [Mr. HRUSKA] that should the question come before the Committee on Finance, I would certainly express to the committee the colloquy and the philosophy that both of us have exchanged here today.

Mr. HRUSKA. If the Senator will yield further, as I understand, the desired result can be achieved in one or two ways. The organic act itself could be amended to provide for contribution and participation. By accomplishing the objective in that manner the State legislatures would be advised in timely fashion so that they could make provision for such matching as that to which the Senator has referred. Is that not correct?

Mr. RIBICOFF. The Senator is correct.

Mr. HRUSKA. I ask a further question along the same line: There is already a requirement that there be a matching of anywhere from one-third to two-thirds for child care services by the States, depending upon the formula which is employed. Is my understanding correct?

Mr. RIBICOFF. The Senator is correct.

Mr. HRUSKA. However, that provision would not apply specifically to day-care programs.

Mr. RIBICOFF. It is a general requirement for all child welfare services.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the Federal share required for the overall program in all 50 States.

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

Federal share of matching funds under child welfare services program [1]

State:	*Federal share* [2]
Alabama	66⅔
Alaska	39.91
Arizona	54.58
Arkansas	66⅔
California	38.48
Colorado	48.06
Connecticut	36.04
Delaware	33⅓
District of Columbia	33⅓
Florida	55.67
Georgia	63.73
Guam	66⅔
Hawaii	48.55
Idaho	59.64
Illinois	40.74
Indiana	51.04
Iowa	53.97
Kansas	53.43
Kentucky	64.84
Louisiana	63.57
Maine	58.56
Maryland	45.80
Massachusetts	43.25
Michigan	48.53
Minnesota	53.32
Mississippi	66⅔
Missouri	50.23
Montana	55.10
Nebraska	52.62
Nevada	35.64
New Hampshire	53.30
New Jersey	40.04
New Mexico	59.10
New York	37.15
North Carolina	64.63
North Dakota	63.28
Ohio	47.70
Oklahoma	58.56
Oregon	49.57
Pennsylvania	49.46
Puerto Rico	66⅔
Rhode Island	50.45
South Carolina	66⅔
South Dakota	60.55
Tennessee	65.02
Texas	56.10
Utah	56.57
Vermont	58.02
Virgin Islands	66⅔
Virginia	58.20
Washington	47.74

See footnotes at end of table.

Federal share of matching funds under child welfare services program [1]—Con.

State:	Federal share [2]
West Virginia	62.42
Wisconsin	51.26
Wyoming	48.94

[1] Allotment percentages promulgated in Federal Register, Sept. 14, 1962, p. 9153.

[2] States must match remainder up to 100 percent.

Mr. RIBICOFF. The Senator is correct. Under the present law, what is provided for day care centers would come into the general formula. I understand the suggestion of the Senator from Nebraska. Since the program and method would be new, he desires to have a specific different type of formula covering day care centers.

Mr. HRUSKA. Hence, one method that could be used would be to amend the organic law—the original law—which provides for the program itself.

Another way that the result could be accomplished would be by the procedure we have resorted to here, but with sufficient advance notice to alert all interested parties. Do I correctly understand the Senator from Connecticut to say that either of those methods would be considered suitable and effective and would receive his support on the basis of timeliness?

Mr. RIBICOFF. They would. As I indicated on the floor of the Senate and in the conference it would receive my support because I believe it is proper. I believe that the States could comply. In my opinion the States would be willing to comply, because the need is basic, not only throughout the country, but in each of the 50 States.

I am confident that there should be such a matching requirement in the basic legislation or in the appropriations, and if the States were to have an opportunity to make their plans timely, there would be no difficulty about the States matching the Federal program.

Mr. HRUSKA. Mr. President, I am grateful to the Senator from Connecticut for his explanation of the proposal, which has been quite helpful.

Mr. RIBICOFF. I thank the Senator very much.

Mr. COTTON. Mr. President, as the ranking minority member of the subcommittee, I shall have something to say in the course of the discussion tomorrow about the fine job that has been done by the distinguished chairman of the subcommittee, the Senator from Alabama [Mr. HILL]. But I shall reserve those comments until tomorrow.

I was in sympathy with the amendment, and participated with the Senator from Nebraska in securing its passage by the subcommittee. I have been much impressed by the presentation of the distinguished Senator from Connecticut. I certainly feel that he has made a case, as has the Senator from Pennsylvania [Mr. CLARK].

I believe I can say on behalf of the minority—at least a portion of the minority—to our distinguished chairman that we would be perfectly willing, in view of the legislative history that has been made, to have him agree to the striking out of the amendment and the limitation.

However, I would like to add as a corollary and a condition precedent that I hope, in view of the fact that we have yielded on this point—which I think is a just point for the reason so well brought out by Senators that the legislatures have adjourned in many States and therefore this is not the right time—in view of the fact that we have been willing to agree to have the amendment stricken, I hope that when the time comes to confer with the House of the amount of the appropriation, that fact will be taken into consideration. I trust that the distinguished chairman of the committee, the Senator from Alabama [Mr. HILL], will stand with me to uphold particularly strongly the amount of the appropriation proposed by the Senate, because of our yielding on that particular safeguard which we felt was important.

Mr. HILL. Mr. President, my distinguished friend from New Hampshire [Mr. COTTON] will be a member of the conference, along with me, and we shall stand squarely together in this regard.

It was the thought, the intent, and the purpose of the Senate Committee on Appropriations that the funds should be matched by the States. I think we were in unanimous agreement on that, exactly as we are now in unanimous agreement that those funds should be matched by the States.

It was not the intent of the Senate Committee on Appropriations or of the authors of the amendment to impose any undue hardship on the States. The information before the Appropriations Committee at the time of action was that the States could match these funds.

The distinguished Senator from Connecticut [Mr. RIBICOFF], who has served as Secretary of the Department of Health, Education, and Welfare and also as Governor of his State, has brought out in his excellent statement the fact that most of the States are not in a position at this time to match the funds. In view of the statements made by the Senator from Connecticut, the Senator from Nebraska, and the Senator from New Hampshire, I ask that the Senate reject this committee amendment.

The PRESIDING OFFICER (Mr. NELSON in the chair). The question is on agreeing to the committee amendment on page 43, beginning on line 15.

The amendment was rejected.

Mr. CLARK. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 3, line 8, it is proposed to strike out "$110,000,000" and to insert in lieu thereof "$140,000,000."

Mr. CLARK. Mr. President, I wish to say, parenthetically, that I do not intend to press the amendment to a vote tonight, but I should like to make my case in support of it, so that Senators may have an opportunity to read the argument in the RECORD tomorrow morning.

The purpose of the amendment is to restore to the bill the amount recommended by the House for carrying out the retraining program authorized by the Manpower Development and Training Act.

The Kennedy administration requested $165 million for this purpose for the fiscal year which began July 1, 1963. This was the full amount authorized for the year under the act.

The House cut the request by $25 million, to $140 million. The administration, speaking through the Under Secretary of Labor, Mr. Henning, agreed to accept the cut.

However, the Senate committee made a further reduction of $30 million in the amount requested by the administration, thus cutting the amount in the bill from the $165 million requested by the administration to $110 million, which is the amount recommended by the Appropriations Committee of the Senate, a total cut of $55 million.

My interest in this matter arises from the fact that I am chairman of the Subcommittee on Employment and Manpower of the Committee on Labor and Public Welfare. It was from this subcommittee that the Manpower Development and Training Act was brought to the full committee and to the Senate, when it was passed in 1962.

This year the subcommittee has been considering amendments to that act, for the purpose of strengthening the legislative authority to conduct the nationwide retraining program. We have had an opportunity to develop exactly what has been done under the act in the year in which it has been in effect and to view the future through the eyes not only of those who are presently administering the act in the Departments of Labor and Health, Education, and Welfare but also through the eyes of organized labor, of the vocational training system of the country, and of many civic organizations deeply interested in the legislation.

Accordingly, members of the subcommittee were much concerned by the cut recommended by the Appropriations Committee. There is in the office of each Senator a letter addressed to all Members of the Senate by the six Democratic members of the Subcommittee on Employment and Manpower. I should like to read that letter into the RECORD:

DEAR COLLEAGUE: As members of the Subcommittee on Employment and Manpower, we are writing to you to express our concern about the action of the Committee on Appropriations in reducing by $30 million the amount which the House of Representatives has voted to appropriate for programs under the Manpower Development and Training Act.

This cut, when added to a cut of $25 million made by the House, represents a total reduction of $55 million from the administration's request of $165 million for these programs.

We believe these actions to be profoundly prejudicial to the efforts now being made to restore vigor to our economy by helping those who lack marketable skills to acquire them.

Moreover, unless they are reversed, we feel that they may fatally cripple our hopes for

halting the progressive isolation and alienation from the job market of the minority groups whose need for the training and retraining which this program provides is so overwhelming.

We have been taking testimony on precisely this problem in the Employment and Manpower Subcommittee since the first of the year, and on the basis of the evidence which we have heard, we are fully convinced that the first and most immediate need is to appropriate the full $165 million authorized by the act. To cut $55 million out of this pitifully inadequate amount would deprive some 51,000 persons of badly needed training and retraining, and in effect doom them to unproductive lives and ultimate dependence on public charity.

We urge that the full administration request of $165 million for these programs be restored to H.R. 5888, now on the Senate Calendar and we solicit your support in this effort.

JOSEPH S. CLARK, *Chairman.*
JENNINGS RANDOLPH.
PAT MCNAMARA.
CLAIBORNE PELL.
QUENTIN BURDICK.
EDWARD M. KENNEDY.

Mr. President, since that letter was signed and distributed we have concluded that in order to be on completely sound ground and to take a moderate position with respect to this program we should reluctantly go along with the Under Secretary of Labor, who told the Senate Committee on Appropriations that he could live with the House figure. Therefore, the pending amendment does not ask, as does the letter, for the restoration of the full amount of $165 million, but only for the restoration of $30 million, which is the amount by which the Senate committee cut the House figure of $140 million.

The subcommittee does not stand alone with respect to the matter of attempting to restore $30 million of the cut. I have a letter from Mr. Ivan A. Nestingen, Under Secretary of the Department of Health, Education, and Welfare, which I should also like to read into the RECORD.

The letter is undated, but it was received yesterday. It reads:

DEAR SENATOR CLARK: This is in response to telephone conversations with your office on August 2, 1963, concerning loss of training opportunity that will result from reduced appropriations for the implementation of Public Law 87-415.

I interpolate to state that that is the Manpower Development and Training Act.

Continuing to quote from the letter:

At the present time, the average cost of training an individual under the Manpower Development and Training Act is approximately $1,000—including both institutional costs and training allowances.

The proposed appropriation of $160 million contemplated training approximately 140,000 individuals based on the current costs of training. With an appropriation of $140 million, we could train approximately 116,000 individuals, and with $110 million we could probably reach about 90,000 persons. Thus, there will be at least 50,000 potential trainees for whom training projects cannot be organized if the appropriation for carrying out the act is reduced to $110 million.

It is significant to note that we reached a level of project development and approval during the final 3 months of the fiscal year which ended June 30, 1963, which, if appropriations were to be sufficient to carry on this same level of activity through the current fiscal year, would result in approved projects able to accommodate about 108,000 unemployed adult persons on a full-time basis. This rate of program development, together with on-the-job training and the rapidly growing out-of-school youth training, was actually in excess of the rate used as the basis for the estimate of 140,000 trainees in fiscal year 1964 under the appropriation authorized in the act.

It would be regrettable if this level of activity had to be reduced.

Sincerely yours,

IVAN A. NESTINGEN,
Under Secretary.

I point out that not only will there be 50,000 potential trainees who will not be trained, but who could be trained if the full amount of the administration's requests were agreed to, but that the amount of the administration's request, in my own opinion, is only enough to train a relatively small percentage of the individuals who are there, ready, able, and willing to be trained, and who, when trained, will have a reasonable opportunity of acquiring employable skills which they do not now have.

It is difficult for me to express to the Senate a summary of what we have heard in our subcommittee, and the heartening result which has already been achieved under this program to date.

It is equally difficult for me to explain to the Senate the high hopes which all have who are familiar with this program for its escalation in the years ahead, so that it can become one of the major factors in dealing successfully with our frightening increase in unemployment, which I fear is far from decreasing, but which, in my opinion, will probably increase still further.

My friend from West Virginia [Mr. RANDOLPH] has just entered the Chamber. I would like to have it noted that this amendment is submitted on behalf of the Senator from West Virginia [Mr. RANDOLPH] as well as myself, and I am happy to yield to the Senator from West Virginia in order that he may respond to the question which I now ask him.

I ask the Senator from West Virginia if he would not concur in my statement that the cutting of this appropriation by the $30 million which is proposed by the Appropriations Committee will, in effect, not enable able-bodied Americans, in the thousands, to receive training which they are ready, willing, and able to take, and which, if they got, would give them an employable skill and a reasonable expectation of employment, and which, if this cut is made, will reduce, by tens of thousands, the numbers who could be trained?

Mr. RANDOLPH. Mr. President, I wish to associate myself with the remarks of the Senator from Pennsylvania [Mr. CLARK]. I know that he has presented a most persuasive argument. I was not here at the outset due to my attendance at a subcommittee hearing of the Appropriations Committee considering the Justice Reservoir project in West Virginia, with which I am directly concerned.

I am appreciative of the opportunity to speak in support of a partial restoration—I repeat, a partial restoration—of what I believe to be the necessary funds to carry forward the Manpower Development and Training Act.

I am very sincerely interested that our colleagues in the Senate realize that they will place an impediment on this program if the appropriation in the amount of $110 million, as reported by the Senate committee, rather than the House figure of $140 million, and rather than the full authorization of $165 million, is passed in the Senate.

It was on June 13 of this year that I introduced a bill which was cosponsored by Senators CLARK, MCNAMARA, PELL, KENNEDY, and MCINTYRE, Senate bill 1716, which has been reported favorably from the Subcommittee on Manpower and Employment of the Labor and Public Welfare Committee.

The very diligent Senator from Pennsylvania, who is addressing himself to this subject this afternoon, is the chairman of that subcommittee. As I have said, the bill which was introduced by me has been reported favorably from the subcommittee, and is now pending in the Labor and Public Welfare Committee. This measure was introduced to implement that portion of the President's civil rights message in which he proposed—and I quote—"that additional funds be provided to broaden the manpower development and training program, and that the act be amended to increase the authorization ceiling and to postpone the effective date of State matching requirements."

Those are the President's words, in recognition of the need to broaden and strengthen the Manpower Development and Training Act. The Senate would not be well-advised, in my opinion, to restrict the act by a further cut in appropriations as recommended by the Appropriations Committee.

The proposal to which I have made reference would postpone the effective date for State matching requirements from June 30, 1964, to June 30, 1965, and would increase the authorization under the act for fiscal 1965 from $161 to $322 million, thereby relieving the States of the burden of matching funds.

The report from the Appropriations Committee, presented by the esteemed senior Senator from Alabama [Mr. HILL], under whose chairmanship I am privileged to serve on the Labor and Public Welfare Committee, states:

Only three States in the regular biennial legislative sessions of this year appropriated any funds for such matching, and the funds appropriated by each of these States is grossly inadequate to match the State's allotment of the 1963 appropriation. In the absence of the requisite State matching funds it will not be possible under the present law, to approve projects in fiscal year 1964 to carry over into the following fiscal year, as was done in the year just concluded.

I do not argue with this point, Mr. President. On the contrary, it was precisely the same knowledge which led to the introduction of S. 1716.

I therefore urge that the Senate, instead of reducing the appropriation for

the Manpower Development Training Act, restore the amount approved by the House, $140 million. The full authorization for fiscal 1964 was $165 million. Frankly that amount could well be used. However, in the amendment now under discussion, cosponsored by those of us who feel deeply about this subject, we are asking only for the House figure, which I believe is still inadequate, but which will go farther in retraining our unemployed workers than would the amount reported by the Appropriations Committee.

Mr. CLARK. I thank the Senator for his helpful intervention. I turn now to my major argument. Not only does the majority of the subcommittee feel strongly about this matter, but I have no reason to believe that any Republican member of the subcommittee, although he may not have signed the report, feels differently than the rest of us with respect to the need for this money.

I have already referred to the letter from the Department of Health, Education, and Welfare. I should like now to refer to a letter which I received on August 5 from the Honorable W. Willard Wirtz, the Secretary of Labor, in which he states:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 5, 1963.

Hon. JOSEPH S. CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: I am writing to you because of my deep concern over the Senate Appropriations Committee action in reducing the appropriation for the Manpower Development and Training Act by some $30 million below the level set by the House. The House had previously cut the $165 million we requested of Congress by $25 million.

Nothing has transpired since the passage of the Manpower Act, which was hailed as a landmark in legislation by interested groups and the highest professional opinion, which would permit any curtailment of effort. The Nation's manpower problems, both present and future, are still with us in the same scope and magnitude as when the act was passed. The results of the searching and informative investigation by your committee on what you have properly characterized as the employment revolution certainly does not show that any diminution of effort is warranted, but rather strongly suggests the reverse.

The high rate of unemployment has remained at the disgraceful level of 5.6 percent month after month. The particular unemployment problems of the hard-core unemployed, for example, our youth, our older workers, those physically and mentally handicapped, and those facing special barriers to employment, are reflected in unemployment rates of more than four times the overall figure when the barriers are compounded.

The Secretary of Labor goes on for four eloquent pages to make the argument that this cut is most unwise and should be restored. He concludes:

Those of us who are deeply concerned about the Nation's current and future manpower problems believe that a reduction below the House allowance would be a serious blow to our program designed to find practical solutions for these problems. The people of our Nation will be convinced that we are seriously interested in their current as well as future well-being only if funds adequate to administer the law in a meaningful and practical fashion are provided. Your complete cooperation in making the Manpower Act an effective tool in combating unemployment and meeting the future manpower needs of the Nation will be appreciated.

Yours sincerely,
W. WILLARD WIRTZ,
Secretary of Labor.

Mr. President, this is the case in support of the amendment. What is the case in opposition to the amendment? I shall try to state it fairly and concisely. On page 3 of the committee report, the committee states its reasons for the reduction:

The committee is advised that only three States in the regular biennial legislative sessions of this year appropriated any funds for such matching, and the funds appropriated by each of these States is grossly inadequate to match the State's allotment of the 1963 appropriation. In the absence of the requisite State matching funds it will not be possible, under the present law, to approve projects in fiscal year 1964 to carry over into the following fiscal year, as was done in the year just concluded.

In consequence of the record before the committee, it is believed that the appropriation recommended will provide sufficient funds for the program in the fiscal year 1964.

In other words, what the committee says is that since in fiscal year 1964 the present legislation calls for 50-percent matching by the States, and since only 3 State legislatures out of 50, have undertaken to provide these funds, and since practically all of the legislatures have adjourned and few of them will meet next year, 1964, there is no need to appropriate this money because it cannot be spent under the present law.

Technically, this would be a completely correct argument if matters were to remain as they are now; and in that event it would be highly doubtful whether the amount appropriated would be inadequate.

I strongly urge on the Senate that matters will not remain as they are now, because we cannot permit them to stay as they are.

As the Senator from West Virginia [Mr. RANDOLPH] has pointed out, an administration bill, S. 1716, waiving the requirements for State participation in this program for 1 year, in order to give an opportunity for State legislatures to meet in their normal course and to make the matching requirements available until they meet 2 years from now, has been introduced in the Senate and referred to the Subcommittee on Employment and Manpower. Comprehensive and full hearings have been held on it, and there was no opposition to it adduced at the hearings. Every one of the nine members of the subcommittee voted in support of S. 1716. It is on the calendar of the Committee on Labor and Public Welfare. I have been assured by its chairman, the distinguished senior Senator from Alabama [Mr. HILL], that a prompt meeting of the full committee to mark up the bill will be held. I have every confidence that the same unanimity which existed in the subcommittee will prevail, or almost to the same extent, in the full committee, and I am hopeful that when the bill comes to the floor there will be only minimal objection to it.

The reason for that is that the retraining of our skilled manpower is probably one of the most economical ways we have of fighting the high rate of unemployment. We can take a man who is on relief, or is receiving unemployment compensation, and train him in an employable skill, at a cost of $1,000, and put him back on a job. The act provides that such training shall not be extended unless it is shown that when the training is completed, there is a reasonable prospect of the trained person being employed. These men get off the relief rolls, they get off unemployment compensation, they go to work, and many of them immediately begin to pay income taxes. It requires no student of higher mathematics to conclude that this money is not a dole; it is not a leaf-raking project; it is not something to prevent social unrest from spreading. It is an investment in the brains of America.

It may be said that all this is true, but, after all, how can the Committee on Appropriations assume that the proposed legislation will be passed? It may be asked, "Why are you in such a hurry? Why is your subcommittee so concerned? Why is the Secretary of Labor so concerned? Why is the Under Secretary of Health, Education, and Welfare so concerned? All you have to do is bide your good time. If you are correct about what Congress will do with S. 1716 in due course that authorization, which, as the Senator from West Virginia [Mr. RANDOLPH] pointed out, was for $322 million, will go through; then you can return to the Committee on Appropriations and get a supplemental appropriation to meet the additional authorization which you have received as a result of the passage of S. 1716."

Mr. President, that looks fine on paper. But it does not look very good from the point of view of individuals who will not be retrained unless the money is restored now. The reason it does not look very good to those people is that it is well recognized that we are running into one of the worst legislative logjams in the history of Congress. We shall have for consideration a nuclear test ban treaty; the railroad strike problem; a tax bill; and then last, but not least, civil rights.

I suggest that it is a starry-eyed optimist who would think that we would be able to get this amount of money as a supplemental appropriation before Congress adjourns this year. It would be a starry-eyed optimist who would think that S. 1716 could be pressed to passage before next January or February.

If this denial of funds eventuates, and if the training programs gradually grind to a halt, thousands of able-bodied Americans will be denied by their Federal Government the right to earn an honorable living, because an opportunity which was created by the authorization will have been taken away by Congress in the appropriation process. Let us remember that many training programs last as long as a year. That is 52 weeks. A year from today will be beyond the expiration of the current fiscal year. No commit-

ments can be made for any training which is to continue beyond June 30, 1964, unless there is State matching at this point.

But there are ways in which the program can be worked out and kept moving if only we can get the full amount of the appropriation. I hope that as this subject is given consideration overnight by the distinguished Senator from Alabama [Mr. HILL] and the distinguished Senator from New Hampshire [Mr. COTTON], they will take counsel with their colleagues on the Committee on Appropriations, and that when we return tomorrow it will be possible to work out an arrangement by which fine Americans, only too desirous of acquiring skills needed to make them useful and productive members of society, will not be forced to return to the relief rolls.

Mr. President, I ask unanimous consent that the full text of the letter from the six Senators on this side of the aisle who are members of the Subcommittee on Employment and Manpower, the letter from the Under Secretary of Health, Education, and Welfare, and the letter from the Secretary of Labor may be printed at the conclusion of my remarks.

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

DEAR COLLEAGUE: As members of the Subcommittee on Employment and Manpower, we are writing to you to express our concern about the action of the Committee on Appropriations in reducing by $30 million the amount which the House of Representatives has voted to appropriate for programs under the Manpower Development and Training Act.

This cut, when added to a cut of $25 million made by the House, represents a total reduction of $55 million from the administration's request of $165 million for these programs.

We believe these actions to be profoundly prejudicial to the efforts now being made to restore vigor to our economy by helping those who lack marketable skills to acquire them.

Moreover, unless they are reversed, we feel that they may fatally cripple our hopes for halting the progressive isolation and alienation from the job market of the minority groups whose need for the training and retraining which this program provides is so overwhelming.

We have been taking testimony on precisely this problem in the Employment and Manpower Subcommittee since the first of the year, and on the basis of the evidence which we have heard, we are fully convinced that the first and most immediate need is to appropriate the full $165 million authorized by the act. To cut $55 million out of this pitifully inadequate amount would deprive some 51,000 persons of badly needed training and retraining, and in effect doom them to unproductive lives and ultimate dependence on public charity.

We urge that the full administration request of $165 million for these programs be restored to H.R. 5888, now on the Senate Calendar, and we solicit your support in this effort.

JOSEPH S. CLARK,
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EDWARD M. KENNEDY.

THE UNDER SECRETARY OF
HEALTH, EDUCATION, AND WELFARE,
Washington, D.C.

Hon. JOSEPH M. CLARK,
U.S. Senate, Washington, D.C.
(Attention of Mr. Harry Schwartz.)

DEAR SENATOR CLARK: This is in response to telephone conversations with your office on August 2, 1963, concerning loss of training opportunity that will result from reduced appropriations for the implementation of Public Law 87-415.

At the present time, the average cost of training an individual under the Manpower Development and Training Act is approximately $1,000—including both institutional costs and training allowances.

The proposed appropriation of $160 million contemplated training approximately 140,000 individuals based on the current costs of training. With an appropriation of $140 million, we could train approximately 116,000 individuals, and with $110 million we could probably reach about 90,000 persons. Thus, there will be at least 50,000 potential trainees for whom training projects cannot be organized if the appropriation for carrying out the act is reduced to $110 million.

It is significant to note that we reached a level of project development and approval during the final 3 months of the fiscal year which ended June 30, 1963, which, if appropriations were to be sufficient to carry on this same level of activity through the current fiscal year, would result in approved projects able to accommodate about 108,000 unemployed adult persons on a full-time basis. This rate of program development, together with on-the-job training and the rapidly growing out-of-school youth training, was actually in excess of the rate used as the basis for the estimate of 140,000 trainees in fiscal year 1964 under the appropriation authorized in the act.

It would be regrettable if this level of activity had to be reduced.

Sincerely yours,

IVAN A. NESTINGEN,
Under Secretary.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 5, 1963.

Hon. JOSEPH S. CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: I am writing to you because of my deep concern over the Senate Appropriations Committee action in reducing the appropriation for the Manpower Development and Training Act by some $30 million below the level set by the House. The House had previously cut the $165 million we requested of Congress by $25 million.

Nothing has transpired since the passage of the Manpower Act, which was hailed as a landmark in legislation by interested groups and the highest professional opinion, which would permit any curtailment of effort. The Nation's manpower problems, both present and future, are still with us in the same scope and magnitude as when the act was passed. The results of the searching and informative investigation by your committee on what you have properly characterized as the employment revolution certainly does not show that any diminution of effort is warranted, but rather strongly suggests the reverse.

The high rate of unemployment has remained at the disgraceful level of 5.6 percent month after month. The particular unemployment problems of the hard-care unemployed, for example, our youth, our older workers, those physically and mentally handicapped, and those facing special barriers to employment, are reflected in unemployment rates of more than four times the overall figure when the barriers are compounded.

As responsible citizens we cannot, in clear conscience, ignore the fact that the number of long-term unemployed has been increasing in the past few years. We must face the fact that we now have in our society an increasing number of workers who, because they lack training and skill, cannot qualify for those jobs which are available. Many of the 1.3 million hard-core unemployed can only look forward to welfare assistance and the corrosive effects of permanent joblessness as a way of life. A reduction in retraining activities would remove their last hope of salvation.

What particularly concerns me in the proposed reduction in training appropriations is that it comes at a time when our needs are becoming more acute as a result of the large number of young workers entering the labor market. During the next 3 years, more than 5½ million new young workers who do not plan to go to college will be looking for work. Of this unprecedented number, about 2 million young men and women will be school dropouts, ill-prepared to obtain or to hold jobs which are becoming increasingly more complex and specialized.

We are already seeing the results of this influx in higher unemployment rates for young people. Only last week the Department of Labor announced that the unemployment rate for teenagers was more than 16 percent in July. Last year, the rate was below 13 percent. Unless this Nation faces up to the seriousness of the problem of jobless youth, we may very well face a serious crisis within the next year or two. Because so many of our young jobseekers have not been properly trained, they are especially in need of a training program. They are the potential hard-core unemployed of the future, and what is even more pitiful, their problems and shortcomings will be visited upon their children.

Let me mention just one more employment problem area of major dimensions which alone could justify our initial budget request—that of automation and technological change. You have pointed out repeatedly in your hearings the enormous difficulties already upon us and looming even greater on the horizon which automation and its more advanced stage, cybernation, involve by way of major manpower adjustments. Technological change, whether of the progressive evolutionary or the dramatic revolutionary type, has a sharp impact on employment. Great increases in productivity are achieved with employment of fewer people. Many skills are made obsolete. Other skills required for the new technology are in short supply. The dislocation of jobs and people are creating grave economic and industrial relations difficulties. I speak from close personal experience, in the current labor-management dispute, in the railroad industry, and in the longshore and newspaper strikes before as well as many others which have come about in large part because of rapid technological change and automation.

The same effects of technological change which are dramatically apparent in the railroad industry are operating throughout the economy. If this country is to truly profit from the gains inherent in technological progress, we cannot allow its adverse effects to fall primarily upon our workers. We must be prepared to offer them training and retraining so that they will share in our technological progress.

The Manpower Development and Training Act offers hope for meeting the challenge in two major directions. One major avenue of manpower action is the training and retraining program provided by this act, which to me is one of the most important programs this country has ever attempted.

It is the one clear-cut direction we must travel in order to make a meaningful impact

on the problem of unemployment. The early success of the training and retraining effort indicates that we can do something positive in enabling unemployed workers to again become productive members of our society.

I should like to underscore the practical aspects of this program. For every dollar invested in training and retraining, we are reaping a larger return. For every worker who becomes employed as a result of retraining we save not only direct welfare and unemployment insurance costs, but we also profit from his immediate productive output and his future long-term contribution to the Nation's growth. The practical effects of the retraining program, moreover, are felt not only in the communities in which they have been established but throughout the entire country.

Beyond the practical gains, I have personally witnessed in my visits to training programs a revival of hope developed among workers who in the past had little to look forward to other than a fruitless search for jobs for which they could not qualify. I can never forget the unemployed unskilled elderly worker in Norfolk, Va., who told me just a few weeks ago that retraining was his "last chance." I have talked to juvenile delinquents who had been written off as incorrigible but who were now, as a result of training, holding down regular jobs and again respectable members of society.

Certainly this is not the time to curtail our training and retraining activities, first because our initial experience emphasized its value as a tool to curb unemployment, and secondly when it is so necessary to give us experience and insight for other programs to follow.

The other avenue of action provided by the act is contained in the manpower and research program called for in title I of the act. Congress included in the original act a statesmanlike and comprehensive mandate to conduct research and evaluate, probe, weigh, and develop information which would enable labor, management, and the public to formulate policy and make decisions based upon facts. During the past year, significant progress has been made in this direction, and important information has been presented on our manpower problems, including the landmark publication, the First President's Manpower Report. However, our initial efforts have indicated that much more has to be done. The pathways are emerging and at their end lies greater hope for producing the kind of information which will provide the necessary data. Certainly this is not the time to restrict the flow of our knowledge about our manpower and every effort should be made to increase it.

Those of us who are deeply concerned about the Nation's current and future manpower problems believe that a reduction below the House allowance would be a serious blow to our program designed to find practical solutions for these problems. The people of our Nation will be convinced that we are seriously interested in their current as well as future well-being only if funds adequate to administer the law in a meaningful and practical fashion are provided. Your complete cooperation in making the Manpower Act an effective tool in combating unemployment and meeting the future manpower needs of the Nation will be appreciated.

Yours sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

PROXMIRE AMENDMENT TO CUT $95 MILLION FROM HEW-LABOR APPROPRIATION

Mr. PROXMIRE. Mr. President, I shall take a minute or two to serve notice on the Senate that I shall offer an amendment tomorrow to reduce the appropriation in the pending bill by some $95 million. My amendment is organized on a simple principle. It appears to be a complicated amendment, because it covers practically every item in the bill. But it is not. It will reduce the appropriation to the lowest level of the three alternatives: the budget estimate, the House bill, or the appropriation recommended by the Senate.

Certainly if we are to attempt to keep Federal spending down in order to ease to some degree our annual budget deficits we must start here and now. This amendment proposes to do just this with a set of budget cuts which does not eliminate programs, does not cut them back, but merely attempts to slow down their skyrocketing costs. In view of the President's commitment to keep spending at the same level as last year in all areas except defense, space, and interest on the national debt, this is the least we can do.

I hope that Senators who believe in economy will support this amendment.

Mr. COTTON. Mr. President, it was stated on the floor of the Senate by the distinguished majority leader that the opening statement on the appropriation bill for the Departments of Labor, and Health, Education, and Welfare would be made this afternoon, but that no further action would be taken on the bill until tomorrow. He said to the Senator from New Hampshire and other Senators that no votes would be taken today. But his statement, according to my understanding, was that the opening statement on the bill would be made, and that that would be all the action that would be taken on the bill today.

I know that the distinguished chairman is ready to discuss the amendment, but I am not prepared to do so, and I do not believe that the majority leader intended to cause us to dismiss some of our assistants, to whom we have relinquished some of the necessary information, since we had the distinct assurance that the opening statement would be made today and that the bill would then go over until tomorrow. I do not believe he intended that we should find ourselves involved in a debate on amendments although, of course, it is the right of any Senator to offer an amendment.

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

Mr. COTTON. I yield.

Mr. CLARK. The Senator from New Hampshire was not in the Chamber when this took place, but I cleared with both the Senator from Alabama and the majority leader my desire to offer my amendment this evening and to make my argument in support of it, so that it might appear in the RECORD tomorrow morning. This request I thought I had cleared, at least by implication, perhaps not explicitly enough, with the Senator from New Hampshire, because he looked at me with his quizzical, inquiring eye when I rose to speak and explain what I was planning to do.

Mr. COTTON. I am sure the distinguished Senator from Pennsylvania is correct. I do not know that I looked at him with a quizzical eye. But he said, and I thought with commendable frankness, that his purpose was to have his amendment and argument appear in the RECORD, so that they could be perused or read and be in the minds of Senators tomorrow. That is proper. That is the Senator's privilege, and it is able and, I should say, astute and adroit tactics.

But the point is that from now on, if we are told that the further consideration of an amendment will be postponed until the next day—whether that statement is made by the majority leader or by any other Senator—I will not be dissuaded from stating my arguments for the RECORD, so they can be read there. On previous occasions I have allowed myself to be persuaded to postpone the presentation of my arguments; but I shall not do so again.

I wish to say that I think that this subcommittee did a magnificent job on this appropriation bill. I have never served on any committee under a more distinguished or able chairman than the Senator from Alabama [Mr. HILL].

Various appropriation cuts were proposed, and we fought out those issues. Sometimes some of us lost; sometimes the committee voted to make the proposed cuts. Before we adjourned, we agreed we would stand together in urging the enactment of this bill—because I believed we had been reasonably prudent, and at the same time had been reasonably liberal, in dealing with some of the health programs which are so vital and are so dear to the heart of the Senator from Alabama.

Mr. HILL. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. I yield.

Mr. HILL. Is it not true that the Senate Appropriations Committee cannot act on what may be done in the future by the Congress, but can act only on existing law and on pending legislation—not on measures which in the future may be passed by the other body and thereafter considered by the Senate? Is it not also true that if we were to include in this bill a one dollar appropriation item not previously authorized, it could go out on a point of order?

Mr. COTTON. The Senator from Alabama is entirely correct.

Furthermore, I think all of us agree—and I think the Senator from Pennsylvania himself said this—that under existing law this is an adequate appropriation.

If we are going to start speculating about the future and ballooning 1 appropriation item in this bill, certainly there are perhaps 15 other items—which some of us thought could very well have done with somewhat smaller amounts—on which we shall have opportunities to have yea-and-nay votes tomorrow, so that every Senator can register his position on nondefense spending in connection with this part of the budget, which has become a very critical area.

I was very proud of the agreement we reached. I do not expect the Senate to accept it; but I agree that if at the outset a certain item, no matter how worthy it may be, is to be voted an appropriation before it is authorized, then all bets are off, and we shall have a serious fight on our hands, a development I would greatly regret, because this bill deals with the

Institutes of Health and other very important programs.

However, if such a fight is to begin, it will begin tomorrow. But I would hate to see that happen. Nevertheless, we were lulled into the belief that it would begin tomorrow.

I am sure the Senator from Pennsylvania has already placed his arguments in the RECORD. After all, the CONGRESSIONAL RECORD is one of the most popular novels of today; and no doubt, before tomorrow noon, it will come to the attention of untold thousands.

But I wish to say that evidently I was laboring under a misapprehension.

Mr. CLARK. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. I yield.

Mr. CLARK. I should like to ask the Senator what the committee did about the bracero bill, which was killed in the House, and which in my opinion is a good deal worse, insofar as appropriations are concerned, than the manpower bill.

Mr. COTTON. Mr. President, the Senator's point is a very good one, and I shall be glad to discuss it tomorrow.

Mr. CLARK. I shall await with bated breath the Senator's arguments in this regard.

Mr. COTTON. Certainly many arguments could be made in regard to this matter.

Mr. CLARK. The Senator from New Hampshire has many guns in his arsenal—as I have come to know during my years of service with him.

Mr. COTTON. I thank the Senator from Pennsylvania.

Mr. President, subject to correction by the chairman of the subcommittee, I wish to state that it is my feeling that tomorrow, when a greater number of Senators will be present, is the proper time to proceed with the debate on this amendment.

ADJOURNMENT

Mr. HILL. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. Yes—or I am glad to yield the floor.

Mr. HILL. Then, Mr. President, I move that, under the order previously entered, the Senate stand in adjournment until tomorrow, at 12 o'clock noon.

The motion was agreed to; and (at 6 o'clock and 5 minutes p.m.) the Senate adjourned, under the order previously entered, until tomorrow, Wednesday, August 7, 1963, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate August 6, 1963:

IN THE NAVY

The following-named officers of the U.S. Navy for temporary promotion to the grade of captain in the line, subject to qualification therefor as provided by law:

Ackerman, John F.
Adams, Ollie B.
Adamson, Robert E., Jr.
Ainsworth, Herbert S.
Alexander, William H., II
Almy, Charles B.
Alt, Earl J.
Arbo, Paul E.
Arnold, Julian, Jr.
Bagby, Robert G.
Bagley, David H.
Baker, Howard J.
Balestri, William L.
Barco, Leslie T., Jr.
Barrow, William B., Jr.
Bartol, John W.
Battson, Arthur L., Jr.
Bedsole, Donald S.
Behrens, William W., Jr.
Bennett, Williams L., Jr.
Bergstedt, William C.
Berriman, Joseph C.
Biddle, Edward
Biewer, Francis N.
Bogan, Lewis F.
Boice, Grant
Bothwell, Robert L.
Brandt, Ralph K.
Bress, Henry
Brock, Clarence C., Jr.
Brooks, Daniel P.
Brown, Clifford L.
Bryant, Carleton F., Jr.
Buckowski, George A.
Budnick, Lawrence E.
Bunce, Lawrence W.
Burk, Raymond W.
Burnette, Oliver S.
Butt, Cyrus H.
Cady, Joseph
Caldwell, Harry H.
Cameron, Alan R.
Carpenter, Albert P.
Carson, Albert C.
Casey, Martin M., Jr.
Cassidy, Richard M.
Castle, Hal C.
Chadwick, Walter D.
Chesky, Kaz P.
Chimiak, Walter
Christiansen, John S.
Christman, Thomas J.
Clark, Morris Y.
Clark, Weldon L.
Clingan, Forest M.
Coad, Richard J.
Collins, Vincent W.
Coogan, Robert P.
Cook, Creighton W.
Cornwall, Ernest S., Jr.
Courtin, Robert E., Jr.
Cowdrey, Roy B.
Cox, Donald V.
Cox, William R.
Crandall, Charles N., Jr.
Craw, Nelson W.
Crawford, Jack H.
Crowder, Jonathan J.
Cruser, Handford T., III.
Cryan, John J.
Cummings, Harry A.
Cummins, Laverne W. S.
Cummins, Lawrence D.
Cummins, William E.
Cutler, Henry O.
Dankworth, Theodore P.
Davis, John F.
Dawson, Howard W.
Delamater, Stephen T., Jr.
Deprez, Richard J.
Dibrell, David M.
Dicori, Ralph
Dixon, William C.
Donnelly, William E., Jr.
Douglas, John T.
Doyle, William J.
Driscoll, John F.
Dumas, Glenn I.
Dunham, Frank C., Jr.
Durna, Gordon A.
Dyar, Joseph E., Jr.
Elliott, Michael M.
Ellis, Walter J.
Emerson, William D., Jr.
Engen, Donald D.
Everett, William H.
Faubion, Richard D.
Fern, Benjamin R.
Fifield, John G.
Fitzgerald, Robert E.
Fitzpatrick, Wayne N.
Flanagan, William R.
Foltz, Frank E.
Ford, Raymond E.
Foreman, Robert P.
Foss, Newton P.
Franco, Thomas E.
From, John L., Jr.
Fruin, Jack L.
Frye, Robert M.
Gaskin, Edward R.
Gibson, Richard H.
Gibson, Robert C.
Glenn, Hardy
Godfrey, Jack E.
Godman, Robert
Gorman, Henry
Grace, Joseph A., II.
Graffy, Richard
Graham, Mac A.
Graning, Leonard G.
Gray, John A., Jr.
Grieve, John R.
Grossetta, Warren A., Jr.
Gummerson, Kenneth C.
Gustafson, Boyd E.
Gustafson, Robert B.
Hancotte, John J., Jr.
Hanks, Eugene R.
Hansen, John B.
Hanson, Robert J.
Harkins, John A.
Hartle, Maurice C.
Hartman, Raymond G.
Hawkins, Jack H.
Hay, Lorin W.
Hazelton, Dewitt W.
Heald, Joseph F.
Heising, Kenneth W.
Henderson, David W.
Henning, Richard E.
Herlong, Daniel W.
Herrick, John J.
Herron, Adam A., Jr.
Hill, Clarence A., Jr.
Hiller, Harold W.
Hipp, Ernest C., Jr.
Hodgson, Gordon S.
Hoke, Leonard A., Jr.
Holbrook, James L.
Hollyfield, Ernest E., Jr.
Honour, Walter W.
Hooper, John H.
Hopkins, William A.
Horn, Dean A.
Horrocks, John N., Jr.
Howell, Jay S.
Huber, Robert L., Jr.
Hufstedler, Edward F.
Iler, John R.
Jenkins, James E.
Johnson, Ivar A.
Keller, Robert M.
Kiernan, William A.
Kimener, Robert A.
Kincaid, John R.
King, Randolph W.
Kitt, Robert B.
Kittel, Irving A.
Knopke, William R.
Knotts, Sanford L.
Knull, William H., Jr.
Koenig, Fillmore G., Jr.
Lambert, Glenn E.
Landon, James B.
Laney, Jack S.
Langer, Chester R.
Larson, Richard
Lee, Kent L.
Lemon, Thomas M., Jr.
Lewellen, Robert S.
Lieber, James C.
Lindberg, Donald S.
Linnekin, Richard B.
Livingston, Robert L.
Lockee, Garette E.
Loomis, Robert J.
Lorentson, Adrian V.
Love, John J., Jr.
Lyon, Gaylord B.
Mackey, William A.
Mallick, Edgar E.
Manship, Herbert K.
McCarthy, Cornelius A.
McCauley, James E.
McClane, Joseph L., Jr.
McDonald, Robert R.
McKenzie, Frank E.
McLane, Alpine W.
McNair, William D.
McQuary, John E.
McVey, William J.
Mereness, Robert H.
Merryman, Charles A., Jr.
Meshier, Charles W.
Metze, George M.
Miehe, Frederick W., Jr.
Millar, Donald B.
Miller, Donald M.
Miller, Rupert S.
Miller, Winston L.
Mink, Robert O.
Morris, Robert L.
Mowell, Lawrence V.
Murphy, Daniel J.
Neal, Raymond G.
Neeb, Lewis H.
Netting, Robert W.
Now, John G.
Oller, John S., Jr.
Osborne, Henry H.
Osgood, Arthur H.
Pahl, Herschel A.
Paolucci, Dominic A.
Papas, Louis J.
Patterson, William H.
Patterson, Joseph, Jr.
Payne, Paul E.
Peale, William T.
Perry, John E.
Perry, Oliver H., Jr.
Pettitt, Robert B.
Porter, Austin M.
Porter, Phillip W., Jr.
Potolicchio, Rodney A.
Prigmore, William B.
Provost, William B., Jr.
Rains, David C.
Reynolds, Ernest E., Jr.
Rhees, Thomas R.
Rian, Gerald R.
Robinson, Irving A.
Robison, Bob J.
Rosania, Hugh J.
Rosemont, Robert K.
Rosen, Ralph J.
Rowe, Robert A.
Rozier, Charles P.
Russillo, Alfred G.
Rust, Charles C.
Ryzow, Richard A.
Sadler, Stuart T.
Sampson, Richard A. H.
Sanborn, Richard W.
Schaefer, William W., II
Schmidt, Charles K.
Schroeder, William A., Jr.
Scott, Maylon T.
Seiler, Aubrey R.
Setser, Lester E. G.
Sharp, George H.
Sharrai, Robert E.
Shawcross, William H.
Sherman, John O., Jr.
Shonerd, David A.
Siple, William L.
Skidmore, Howard H.
Slattery, Francis L.
Smith, Augustine W.
Smith, Floyd E.
Smith, Leon I., Jr.
Snodgrass, Joseph C., Jr.
Snyder, Edwin K.
Sonntag, Frank H.
South, Marvin P.
Stetson, John B.
Stevens, James H., Jr.
Stickles, Albert L., II
Stock, Glenn C.
Stockton, Jackson A.
Story, Emery G., Jr.
Stuart, Jack C.
Stubel, Alvin T.
Sudduth, Roy M.
Sullivan, Thomas J.
Surface, Wayne D.
Tamburello, Gaspare B.
Thomas, Lloyd H.
Thornhill, Henry E., Jr.
Thornton, Joseph H., Jr.
Tisdale, Charles H., Jr.
Trautmann, John R.
Trottier, Albert R.
Tucker, Charles E., Jr.
Turner, Frederick C.
Turner, William H., Jr.
Unruh, Robert D.
Upshaw, William W.
Vito, Albert H., Jr.
Volpi, Ray A.
Wakeland, William R.
Walker, Donald P.
Wallace, Robert Q.
Walsh, Thomas W. F.
Walters, Hilmon E., Jr.
Ward, John G.
Webster, Harvey O., Jr.
Weeks, John M.
Wentworth, Ralph S., Jr.
Whidden, Wynn V.
Williams, Edward A.
Wish, James R.
Wolf, Robert L.
Wooten, Robert J.
Workman, Reginald L.
Worthing, Lewis K.
Wroblewski, Sigmund V.
Yatch, Walter A.
Yates, Earl P.
Yeich, Lloyd G.
Yesensky, Albert S.
Yount, Robert R.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of major general:

Henry W. Buse, Jr.
Herman Nickerson, Jr.
William P. Battell
George H. Cloud
Frank C. Tharin

Lewis J. Fields Frederick E. Leek
Raymond L. Murray

The following-named officers of the Marine Corps for temporary appointment to the grade of major general:

Paul R. Tyler Louis B. Robertshaw
William J. VanRyzin Rathvon McC.
William T. Fairbourn Tompkins
Bruno A. Hochmuth Paul J. Fontana
William R. Collins

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

Paul J. Fontana Joseph O. Butcher
George S. Bowman, Jr. John F. Dobbin
Wood B. Kyle Carl A. Youngdale
Lewis W. Walt Ormond R. Simpson

The following-named officers of the Marine Corps for temporary appointment to the grade of brigadier general:

Charles J. Quilter William G. Thrash
Donn J. Robertson Marion E. Carl
Lowell E. English Arthur H. Adams
Alvin S. Sanders Frederick J. Karch
Gordon D. Gayle John W. Antonelli
Melvin D. Henderson

CONFIRMATIONS

Executive nominations confirmed by the Senate August 6, 1963:

DEPARTMENT OF JUSTICE

Bruce R. Thompson, of Nevada, to be U.S. district judge for the district of Nevada.

FARM CREDIT ADMINISTRATION

Kenneth T. Anderson, of Kansas, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1969.

Lorin T. Bice, of Florida, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1969.

WITHDRAWAL

Executive nomination withdrawn from the Senate August 6, 1963:

The nomination sent to the Senate on April 11, 1963, of Richard R. Conley to be postmaster at Rome City, in the State of Indiana.

HOUSE OF REPRESENTATIVES

TUESDAY, AUGUST 6, 1963

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Psalm 19: 8: *The statutes of the Lord are right, rejoicing the heart.*

O Thou God of infinite and infallible wisdom, may we daily long and labor with confidence and certainty that our desires and hopes for the health and happiness of mankind shall someday be fulfilled.

Grant that the mind and heart of our confused and troubled world may be touched and transformed by the regenerating power of the love and light of Thy divine spirit.

Show us how, in the great adventure of building a nobler civilization, we may help all the nations of the earth cultivate friendship and fraternity.

Use us in lifting humanity unto that loftier spiritual unity where all feelings of hatred and hostility, of antagonism and antipathy, are transcended and supplanted by a relationship of peace and good will.

Hear us in the name of the Prince of Peace. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Ratchford, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On July 22, 1963:

H.R. 40. An act to assist the States to provide additional facilities for research at the State agricultural experiment stations; and

H.R. 2461. An act to direct the Secretary of the Interior to convey to the city of Henderson, Nev., at fair market value, certain public lands in the State of Nevada.

On July 25, 1963:

H.R. 2998. An act to amend titles 10, 14, and 38, United States Code, with respect to the award of certain medals and the Medal of Honor Roll; and

H.R. 3845. An act to amend the Lead-Zinc Small Producers Stabilization Act of October 3, 1961 (75 Stat. 766).

On July 26, 1963:

H.R. 5279. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1964, and for other purposes; and

H.J. Res. 513. Joint resolution authorizing the President to proclaim the week beginning July 28, 1963, as Veterinary Medicine Week.

On July 30, 1963:

H.R. 1933. An act to amend the act of February 9, 1907, entitled "An act to define the term 'registered nurse' and to provide for the registration of nurses in the District of Columbia," as amended, with respect to the minimum age limitation for registration; and

H.J. Res. 403. Joint resolution to amend section 316 of the Agricultural Adjustment Act of 1938 to extend the time by which a lease transferring a tobacco acreage allotment may be filed.

On August 5, 1963:

H.R. 2221. An act to provide for the free entry of a mass spectrometer for the use of Stanford University, Stanford, Calif.;

H.R. 3272. An act to provide for the free entry of an orthicon image assembly for the use of the Medical College of Georgia, Augusta, Ga.;

H.R. 3674. An act to amend the Tariff Act of 1930 to provide that polished sheets and plates of iron or steel shall be subject to the same duty as unpolished sheets and plates; and

H.R. 4646. An act to declare a portion of the Benton Harbor Canal, Benton Harbor, Mich., a nonnavigable stream.

HON. FRED B. ROONEY

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania [Mr. MORGAN].

Mr. MORGAN. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. FRED B. ROONEY] be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest and no question has been raised in regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ROONEY of Pennsylvania appeared at the bar of the House and took the oath of office.

RIVER BASIN PLANS

Mr. DAVIS of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6016) authorizing additional appropriations for prosecution of projects in certain river basin plans for flood control, navigation, and other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

Mr. HALL, Mr. HARSHA, Mr. SCHWENGEL, Mr. GROSS, and Mr. DORN objected.

EARTHQUAKE IN YUGOSLAVIA

Mr. CONTE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Speaker, the earthquake in Yugoslavia last week was indeed a blow to the people of that country. I know that the American people extend to those in the earthquake zone who experienced this catastrophe their heartfelt sympathy. The U.S. Government and the U.S. people have responded quickly and generously to the obvious need of the sufferers of this natural disaster. I understand that deliveries of relief goods and supplies are underway. I know that the people of Yugoslavia will appreciate this generous gesture.

I am pleased to know that the U.S. Government has been able to respond to the emergency by providing transportation for shipments provided by U.S. voluntary agencies. This important and rapid response to human emergencies is, it seems to me, an essential part of the total U.S. foreign policy effort, one which draws deeply on the humanitarian instincts of the American people, and one which should at all times be encouraged. I do not know what funds will be used but I understand that the Agency for International Development may finance a portion of the costs involved.

It is of course clear that this is not assistance to the Government of Yugoslavia within the meaning of the restrictions of section 620(f) of the Foreign Assistance Act and section 109 of the Foreign Assistance Appropriation Act. It is assistance through voluntary agencies directly to the people of Skopje who are suffering immeasurably as a result of this terrible tragedy. I understand that this distinction between assistance to nations and assistance to people has long been accepted under the Battle Act.