in the November 1963 issue of the Takoma Park City Services, the newsletter of the city of Takoma Park, Md.

The newsletter continues by giving information that formal affiliation with the Brazilian city took place last January when the Honorable Antonio Lomanto, Jr., then mayor of Jequie, and now Governor of the Province of Bahia, met in Takoma Park with Mayor George Miller, and officially exchanged town affiliation charters, uniting the two communities. The exchange concluded 3 years of negotiation between the city, the State Department, and the American Municipal Association.

The October 10 meeting was in effect the first formal organization of some 30 citizens who expressed strong support of the project.

One of the first problems facing the committee was finding a home for the Brazilian student who is expected to arrive in January. The student, Miss Arly Souza Britto, niece of Governor Lamanto, is expected to stay with Mr. and Mrs. J. W. Coffman, Takoma Park's public affairs director, and attend a local high school on an exchange basis. Because of time differentials, Takoma's student, upon selection, is expected to visit Jequie next June.

The individuals who have been named to head the new citizens' executive committee for the Sister City project are as follows: E. W. Tarr, chairman; W. H. McClenon, first vice chairman; Leslie Pitton, second vice chairman; Mrs. Esther Geib, secretary; and Mrs. Rhoda Ross, associate secretary.

In addition to this, the citizens' committee decided to name subcommittee chairmen in order to develop full exchange in communication with the citizens of Jequie. These citizens are as follows: Robert Chasm, community relations; John Postle, ham radio; H. Eugene Walker, education; Mrs. Ruth B. Pratt, fine arts; Mrs. Rita Robinson, library; Mrs. Fred Grabe, public affairs; Mrs. Barbara Thorn, student exchange; Mr. Herbert Smith, technical; Mrs. Hilda Rocco, translation; and W. H. McGlenon, organization.

Takoma's Sister City, Jequie, has a population of 51,000, is a county seat, and is located on the left bank of the Contas River, 120 miles southwest of Salvadore, capital of the Province of Bahia.

The State Department, in cooperating with the city's efforts, has continually emphasized that the success of the Sister City program is based upon grassroots communication, volunteer citizens activities, and the basic exchange of mutual interests through common communications. Takoma Park, Md., is achieving this through the establishment of this citizens committee and widespread community support.

The committee has reviewed the definition of a town affiliation, and they determined that the affiliation is mutually established between an American city and a city of another country of the free world, jointly affecting a program of practical communications on a people-to-people level. The purpose of the organization is twofold. First, to promote mutual understanding, respect, and friendship between the people of the sister cities, and to help create an international relationship which will ultimately replace differences with meetings in an atmosphere of cooperation and amity.

Throughout Maryland we find that there are five cities with Sister City projects. They are as follows: Frederick, Md., with Landau, Germany; Forest Heights with Villaviciosa, Philippines; Hagerstown with Wesel, Germany; Rockville with Pinneberg, Germany; and Takoma Park with Jequie, Brazil.

Mayor George M. Miller and the Takoma Park City Council are cooperating with the citizens committee in setting up arrangements for making this program a reality. The organization is also cooperating with the American Municipal Association.

This Sister City or town affiliation program is a dramatic movement which is vitally important in a tense world.

The Sister City project offers the means by which individuals in Takoma Park and all Maryland cities can learn from individuals in other nations. This willingness to learn on the part of our citizens of Maryland is significantly important today, and I wish to commend them here for extending the hand of friendship as neighbors and as partners to the people of Jequie.

The Civil Rights Bill

EXTENSION OF REMARKS

OF

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 5, 1963

Mr. BROWN of Ohio. Mr. Speaker, inasmuch as it appears parliamentarily impossible to hold and conclude hearings, or to take final action, on the civil rights bill now before the Rules Committee until January, and in light of the fact an application for a rule was not filed by the Judiciary Committee until November 22, and the final report on the civil rights bill was not filed by the same committee until yesterday, which under the rules would prevent the holding of any hearings before tomorrow or Monday, the minority members of the Rules Committee accept at full face value Chairman HOWARD W. SMITH's statement he will promptly schedule hearings on the civil rights bill for early January, to be continued until the committee has an opportunity to vote on the adoption of a rule to send the civil rights bill to the House floor.

It is believed the above results can and will be accomplished without undue delay, despite the fact that no hearings on the pending civil rights bill were held by the House Judiciary Committee or by any other committee of the House.

SENATE

FRIDAY, DECEMBER 6, 1963

(Legislative day of Thursday, December 5, 1963)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by the Acting President pro tempore, Hon. LEE METCALF, a Senator from the State of Montana.

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

Our Father, strong to save, amid the shifting shadows of the temporal, give us clear and clean eyes to discern the shining truth of the eternal. Forgive us that in the heat of partisanship so often we have forgotten that above our selfish ambitions and our hollow pride lie unchangeable verities like granite peaks piercing the sky.

Facing days which tax all our resources, give us the untroubled calm which illuminates faith in the final triumph of every true idea let loose in the world, and against which the gates of hell cannot prevail. And in a world which is a battlefield where truth and falsehood are locked in mortal combat, even as we face unnumbered foes, bar our own hearts from all corroding hatred; and as we fight the good fight, may our strength be as the strength of 10 because our hearts are pure.

We ask it in the name of the Holy One who declared, "Blessed are the pure in heart, for they shall see God." Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, December 5, 1963, was dispensed with.

TRANSACTION OF ROUTINE BUSINESS

On request of Mr. MANSFIELD, and by unanimous consent, it was ordered that there be a morning hour, with statements therein limited to 3 minutes.

COMMITTEE MEETING DURING SENATE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the Committee on Rules and Administration was authorized to meet during the session of the Senate today.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HILL, from the Committee on Labor and Public Welfare, with amendments:

S. 2220. A bill to encourage physicians and dentists who have received student loans under programs established pursuant to title VII of the Public Health Service Act to practice their professions in areas having a shortage of physicians or dentists (Rept. No. 748).

Mr. HILL. Mr. President, at its next printing, I ask unanimous consent that the name of the distinguished Senator from Texas [Mr. YARBOROUGH] be added as one of the cosponsors of Senate bill 2220, which has just been reported.

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

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 6975. An act for the relief of Giuseppe Maida, his wife, Caterina Maida, and their children, Antonio, and Vittoria Maida (Rept. No. 749).

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 9139. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1964, and for other purposes (Rept. No. 750).

REPORT OF JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES—FEDERAL EMPLOYMENT AND PAY

Mr. BYRD of Virginia. Mr. President, as chairman of the Joint Committee on Reduction of Nonessential Federal Expenditures, I submit a report on Federal employment and pay for the month of October 1963. In accordance with the practice of several years' standing, I ask unanimous consent to have the report printed in the RECORD, together with a statement by me.

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

FEDERAL PERSONNEL IN EXECUTIVE BRANCH, OCTOBER 1963 AND SEPTEMBER 1963, AND PAY, SEPTEMBER 1963 AND AUGUST 1963

NOTE WITH REFERENCE TO PERSONAL SERVICE EXPENDITURE FIGURES

It should be noted that the latest expenditure figures for personal services shown in table I of this report are for the month of September 1963 and that they are compared with personal service expenditure figures for the month of August 1963, whereas the latest employment figures covered in this report are for the month of October 1963 and are compared with the month of September 1963. This lag in personal service expenditure figures is necessary in order that actual expenditures may be reported.

(Figures in the following report are compiled from signed official personnel reports by the various agencies and departments of the Federal Government. Table I shows total personnel employed inside and outside the United States, and pay, by agency. Table II shows personnel employed inside the United States. Table III shows personnel employed outside the United States. Table IV gives by agency the industrial workers employed by the Federal Government. For purposes of comparison, figures for the previous month are shown in adjoining columns. Table V is a separate report on foreign nationals who are not counted in tables I, II, III, and IV.)

PERSONNEL AND PAY SUMMARY

(See table I)

Information in monthly personnel reports for October 1963 submitted to the Joint Committee on Reduction of Nonessential Federal Expenditures is summarized as follows:

Total and major categories	Civilian personnel in executive branch			Payroll (in thousands) in executive branch		
	In October numbered—	In September numbered—	Increase (+) or decrease (−)	In September was—	In August was—	Increase (+) or decrease (−)
Total [1]	2,494,522	2,492,170	+2,352	$1,276,294	$1,341,472	−$65,178
Agencies exclusive of Department of Defense	1,449,115	1,445,753	+3,362	735,074	778,910	−43,836
Department of Defense	1,045,407	1,046,417	−1,010	541,220	562,562	−21,342
Inside the United States	2,325,409	2,324,026	+1,383			
Outside the United States	169,113	168,144	+969			
Industrial employment	555,496	556,910	−1,414			
Foreign nationals	159,940	160,605	−665	28,371	[2] 28,034	+337

[1] Exclusive of foreign nationals shown in the last line of this summary.

[2] Revised on basis of later information.

Table I breaks down the above figures on employment and pay by agencies.

Table II breaks down the above employment figures to show the number inside the United States by agencies.

Table III breaks down the above employment figures to show the number outside the United States by agencies.

Table IV breaks down the above employment figures to show the number in industrial-type activities by agencies.

Table V shows foreign nationals by agencies not included in tables I, II, III, and IV.

TABLE I.—*Consolidated table of Federal personnel inside and outside the United States employed by the executive agencies during October 1963, and comparison with September 1963, and pay for September 1963, and comparison with August 1963*

Department or agency	Personnel				Pay (in thousands)			
	October	September	Increase	Decrease	September	August	Increase	Decrease
Executive departments (except Department of Defense):								
Agriculture	107,453	[1] 108,364		911	$53,199	$59,054		$5,855
Commerce	31,069	31,175		106	19,279	21,240		1,961
Health, Education, and Welfare	81,682	81,491	191		43,874	43,158	$716	
Interior	69,613	[1] 68,154	1,459		37,108	39,619		2,511
Justice	31,886	31,953		67	20,631	21,366		735
Labor	9,471	9,499		28	5,697	6,079		382
Post Office	590,042	587,754	2,288		271,459	287,983		16,524
State [2 3]	42,867	42,517	350		21,843	22,630		787
Treasury	85,415	85,661		246	48,942	52,137		3,195
Executive Office of the President:								
White House Office	371	375		4	258	260		2
Bureau of the Budget	485	482	3		421	447		26
Council of Economic Advisers	56	47	9		39	51		12
Executive Mansion and Grounds	73	74		1	44	40	4	
National Aeronautics and Space Council	29	29			26	27		1
National Security Council	43	42	1		34	35		1
Office of Emergency Planning	440	467		27	370	392		22
Office of Science and Technology	87	109		22	45	34	11	
Office of the Special Representative for Trade Negotiations	28	27	1		23	21	2	
President's Commission on Registration and Voting Participation	15	7	8		5	7		2
President's Committee on Equal Opportunity in Housing	4	4			4	7		

See footnotes at end of table.

TABLE I.—*Consolidated table of Federal personnel inside and outside the United States employed by the executive agencies during October 1963, and comparison with September 1963, and pay for September 1963, and comparison with August 1963*—Continued

Department or agency	Personnel				Pay (in thousands)			
	October	September	Increase	Decrease	September	August	Increase	Decrease
Independent agencies:								
Advisory Commission on Intergovernmental Relations	25	32		7	$21	$22		$1
American Battle Monuments Commission	421	436		15	80	94		14
Atomic Energy Commission	7,249	7,227	22		5,347	5,566		219
Board of Governors of the Federal Reserve System	622	616	6		398	427		29
Civil Aeronautics Board	860	859	1		641	667		26
Civil Service Commission	4,041	4,038	3		2,474	2,583		109
Civil War Centennial Commission	5	5			4	6		2
Commission of Fine Arts	6	6			5	5		
Commission on Civil Rights	64	62	2		49	58		9
Delaware River Basin Commission	2	2			2	2		
Export-Import Bank of Washington	294	293	1		209	211		2
Farm Credit Administration	241	240	1		171	183		12
Federal Aviation Agency	45,820	46,157		337	32,084	33,718		1,634
Federal Coal Mine Safety Board of Review	7	7			4	4		
Federal Communications Commission	1,459	1,462		3	1,002	1,073		71
Federal Deposit Insurance Corporation	1,266	1,274		8	844	850		6
Federal Home Loan Bank Board	1,232	1,234		2	832	867		35
Federal Maritime Commission	242	240	2		179	189		10
Federal Mediation and Conciliation Service	405	398	7		338	358		20
Federal Power Commission	1,149	1,154		5	800	855		55
Federal Radiation Council	4	4			(4)			
Federal Trade Commission	1,150	1,155		5	800	868		68
Foreign Claims Settlement Commission	149	150		1	78	86		8
General Accounting Office	4,480	4,511		31	2,920	3,093		173
General Services Administration	33,270	32,993	277		16,091	16,755		664
Government Printing Office	7,291	7,244	47		4,247	4,399		152
Housing and Home Finance Agency	14,107	14,117		10	8,604	9,040		436
Indian Claims Commission	21	21			21	21		
Interstate Commerce Commission	2,408	2,411		3	1,638	1,711		73
National Aeronautics and Space Administration	29,971	29,963	8		22,924	24,422		1,498
National Capital Housing Authority	443	441	2		199	208		9
National Capital Planning Commission	60	59	1		44	45		1
National Capital Transportation Agency	63	65		2	52	58		6
National Gallery of Art	313	310	3		138	140		2
National Labor Relations Board	1,980	1,988		8	1,377	1,455		78
National Mediation Board	143	138	5		102	94	$8	
National Science Foundation	1,026	963	63		660	687		27
Panama Canal	15,123	14,970	153		5,313	7,625		2,312
President's Committee on Equal Employment Opportunity	57	57			38	41		3
Railroad Retirement Board	1,928	1,936		8	1,059	1,126		67
Renegotiation Board	217	220		3	175	182		7
St. Lawrence Seaway Development Corporation	164	163	1		103	103		
Securities and Exchange Commission	1,366	1,359	7		920	983		63
Selective Service System	6,910	6,889	21		2,154	2,268		114
Small Business Administration	3,410	3,381	29		2,152	2,246		94
Smithsonian Institution	1,507	1,482	25		765	851		86
Soldiers' Home	1,083	1,073	10		356	365		9
South Carolina, Georgia, Alabama, and Florida Water Study Commission	10	11		1	6	7		1
Subversive Activities Control Board	25	25			20	20		
Tariff Commission	276	275	1		197	208		11
Tax Court of the United States	154	156		2	132	126	6	
Tennessee Valley Authority	17,266	17,788		522	10,599	11,323		724
U.S. Arms Control and Disarmament Agency	165	151	14		116	123		7
U.S. Information Agency	12,005	11,999	6		5,343	5,712		369
Veterans' Administration	173,518	172,759	759		76,779	80,068		3,289
Virgin Islands Corporation	513	553		40	167	126	41	
Total, excluding Department of Defense	1,449,115	1,445,753	5,787	2,425	735,074	778,910	788	44,624
Net change, excluding Department of Defense			3,362				43,836	
Department of Defense:								
Office of the Secretary of Defense	2,152	2,154		2	2,010	1,511	499	
Department of the Army	374,252	374,791		539	187,714	195,930		8,216
Department of the Navy	339,996	340,919		923	184,638	193,196		8,558
Department of the Air Force	297,579	297,269	310		150,870	155,524		4,654
Defense Atomic Support Agency	1,983	1,996		13	979	1,029		50
Defense Communications Agency	652	626	26		380	383		3
Defense Supply Agency	25,518	25,422	96		12,589	12,695		106
Office of Civil Defense	1,057	1,050	7		861	946		85
U.S. Court of Military Appeals	39	39			33	34		1
Interdepartmental activities	13	13			7	9		2
International military activities	61	60	1		41	42		1
Armed Forces information and education activities	427	421	6		205	220		15
Classified activities	1,678	1,657	21		893	1,043		150
Total, Department of Defense	1,045,407	1,046,417	467	1,477	541,220	562,562	499	21,841
Net decrease, Department of Defense			1,010				21,342	
Grand total, including Department of Defense [5 6]	2,494,522	2,492,170	6,254	3,902	1,276,294	1,341,472	1,287	66,465
Net change, including Department of Defense			2,352				65,178	

[1] Revised on basis of later information.

[2] October figure includes 17,012 employees of the Agency for International Development as compared with 17,054 in September and their pay. These AID figures include employees who are paid from foreign currencies deposited by foreign governments in a trust fund for this purpose. The October figure includes 4,674 of these trust fund employees and the September figure includes 4,654.

[3] October figure includes 1,034 employees of the Peace Corps as compared with 1,012 in September and their pay.

[4] Less than $500.

[5] Exclusive of personnel and pay of the Central Intelligence Agency and the National Security Agency.

[6] Includes employment by Federal agencies under the Public Works Acceleration Act (Public Law 87-658) as follows:

Agency	October	September	Change
Agriculture Department	4,843	3,897	+946
Interior Department	5,553	3,038	+2,515
Tennessee Valley Authority	52	61	−9
Total	10,448	6,996	+3,452

TABLE II.—*Federal personnel inside the United States employed by the executive agencies during October 1963, and comparison with September 1963*

Department or agency	October	September	Increase	Decrease
Executive Departments (except Department of Defense):				
Agriculture	106,103	[1] 107,064		961
Commerce	30,408	30,521		113
Health, Education, and Welfare	81,030	80,843	187	
Interior	69,018	[1] 67,587	1,431	
Justice	31,528	31,587		59
Labor	9,353	9,391		38
Post Office	588,534	586,252	2,282	
State [2] [3]	10,677	10,736		59
Treasury	84,796	85,048		252
Executive Office of the President:				
White House Office	371	375		4
Bureau of the Budget	485	482	3	
Council of Economic Advisers	56	57	9	
Executive Mansion and Grounds	73	74		1
National Aeronautics and Space Council	29	29		
National Security Council	43	42	1	
Office of Emergency Planning	440	467		27
Office of Science and Technology	87	109		22
Office of the Special Representative for Trade Negotiations	28	27	1	
President's Commission on Registration and Voting Participation	15	7	8	
President's Committee on Equal Opportunity in Housing	4	4		
Independent agencies:				
Advisory Commission on Intergovernmental Relations	25	32		7
American Battle Monuments Commission	7	7		
Atomic Energy Commission	7,217	7,194	23	
Board of Governors of the Federal Reserve System	622	616	6	
Civil Aeronautics Board	859	858	1	
Civil Service Commission	4,037	4,035	2	
Civil War Centennial Commission	5	5		
Commission of Fine Arts	6	6		
Commission on Civil Rights	64	62	2	
Delaware River Basin Commission	2	2		
Export-Import Bank of Washington	294	293	1	
Farm Credit Administration	241	240	1	
Federal Aviation Agency	44,761	45,107		346
Federal Coal Mine Safety Board of Review	7	7		
Federal Communications Commission	1,457	1,460		3
Federal Deposit Insurance Corporation	1,264	1,272		8
Federal Home Loan Bank Board	1,232	1,234		2
Federal Maritime Commission	242	240	2	
Federal Mediation and Conciliation Service	405	398	7	
Federal Power Commission	1,149	1,154		5
Federal Radiation Council	4	4		
Federal Trade Commission	1,150	1,155		5
Foreign Claims Settlement Commission	109	110		1
General Accounting Office	4,393	4,420		27
General Services Administration	33,246	32,970	276	
Government Printing Office	7,291	7,244	47	
Housing and Home Finance Agency	13,914	13,927		13
Indian Claims Commission	21	21		
Interstate Commerce Commission	2,408	2,411		3
Independent agencies—Continued				
National Aeronautics and Space Administration	29,953	29,950	3	
National Capital Housing Authority	443	441	2	
National Capital Planning Commission	60	59	1	
National Capital Transportation Agency	63	65		2
National Gallery of Art	313	310	3	
National Labor Relations Board	1,947	1,955		8
National Mediation Board	143	138	5	
National Science Foundation	1,013	949	64	
Panama Canal	167	170		3
President's Committee on Equal Employment Opportunity	57	57		
Railroad Retirement Board	1,928	1,936		8
Renegotiation Board	217	220		3
St. Lawrence Seaway Development Corporation	164	163	1	
Securities and Exchange Commission	1,366	1,359	7	
Selective Service System	6,761	6,740	21	
Small Business Administration	3,351	3,324	27	
Smithsonian Institution	1,490	1,466	24	
Soldiers' Home	1,083	1,073	10	
South Carolina, Georgia, Alabama, and Florida Water Study Commission	10	11		1
Subversive Activities Control Board	25	25		
Tariff Commission	276	275	1	
Tax Court of the United States	154	156		2
Tennessee Valley Authority	17,265	17,788		523
U.S. Arms Control and Disarmament Agency	165	151	14	
U.S. Information Agency	3,396	3,378	18	
Veterans' Administration	172,513	171,763	750	
Total, excluding Department of Defense	1,383,833	1,381,098	5,241	2,506
Net increase, excluding Department of Defense			2,735	
Department of Defense:				
Office of the Secretary of Defense	2,101	2,101		
Department of the Army	322,843	323,381		538
Department of the Navy	315,299	316,245		946
Department of the Air Force	269,962	269,972		10
Defense Atomic Support Agency	1,983	1,996		13
Defense Communications Agency	619	595	24	
Defense Supply Agency	25,518	25,422	96	
Office of Civil Defense	1,057	1,050	7	
U.S. Court of Military Appeals	39	39		
Interdepartmental activities	13	13		
International military activities	37	36	1	
Armed Forces Information and Education Activities	427	421	6	
Classified activities	1,678	1,657	21	
Total, Department of Defense	941,576	942,928	155	1,507
Net decrease, Department of Defense			1,352	
Grand total, including Department of Defense	2,325,409	2,324,026	5,396	4,013
Net increase, including Department of Defense			1,383	

[1] Revised on basis of later information.

[2] October figure includes 2,837 employees of the Agency for Interntional Development as compared with 2,895 in September.

[3] October figure includes 660 employees of the Peace Corps, as compared with 647 in September.

TABLE III.—*Federal personnel outside the United States employed by the executive agencies during October 1963, and comparison with September 1963*

Department or agency	October	September	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	1,350	1,300	50	
Commerce	661	654	7	
Health, Education, and Welfare	652	648	4	
Interior	595	567	28	
Justice	358	366		8
Labor	118	108	10	
Post Office	1,508	1,502	6	
State [1] [2]	32,190	31,781	409	
Treasury	619	613	6	
Independent agencies:				
American Battle Monuments Commission	414	429		15
Atomic Energy Commission	32	33		1
Civil Aeronautics Board	1	1		
Civil Service Commission	4	3	1	
Federal Aviation Agency	1,059	1,050	9	
Federal Communications Commission	2	2		
Federal Deposit Insurance Corporation	2	2		
Foreign Claims Settlement Commission	40	40		
General Accounting Office	87	91		4
General Services Administration	24	23	1	
Housing and Home Finance Agency	193	190	3	
National Aeronautics and Space Administration	18	13	5	
National Labor Relations Board	33	33		
National Science Foundation	13	14		1
Panama Canal	14,956	14,800	156	
Selective Service System	149	149		
Small Business Administration	59	57	2	
Smithsonian Institution	17	16	1	
Tennessee Valley Authority	1		1	
U.S. Information Agency	8,609	8,621		12
Veterans' Administration	1,005	996	9	
Virgin Islands Corporation	513	553		40
Total, excluding Department of Defense	65,282	64,655	708	81
Net increase, excluding Department of Defense			627	
Department of Defense:				
Office of the Secretary of Defense	51	53		2
Department of the Army	51,409	51,410		1
Department of the Navy	24,697	24,674	23	
Department of the Air Force	27,617	27,297	320	
Defense Communications Agency	33	31	2	
International Military Activities	24	24		
Total, Department of Defense	103,831	103,489	345	3
Net increase, Department of Defense			342	
Grand total, including Department of Defense	169,113	168,144	1,053	84
Net increase, including Department of Defense			969	

[1] October figure includes 14,175 employees of the Agency for International Development as compared with 14,159 in September. These AID figures include employees who are paid from foreign currencies deposited by foreign governments in a trust fund for this purpose. The October figure includes 4,674 of these trust fund employees and the September figure includes 4,654.

[2] October figure includes 374 employees of the Peace Corps as compared with 365 in September.

TABLE IV.—*Industrial employees of the Federal Government inside and outside the United States employed by the executive agencies during October 1963, and comparison with September 1963*

Department or agency	October	September	Increase	Decrease
Executive departments (except Department of Defense):				
Agriculture	3,850	3,853	----	3
Commerce	5,613	5,624	----	11
Interior	8,800	8,852	----	52
Post Office	260	262	----	2
Treasury	5,327	5,363	----	36
Independent agencies:				
Atomic Energy Commission	261	262	----	1
Federal Aviation Agency	2,940	2,965	----	25
General Services Administration	1,733	1,730	3	----
Government Printing Office	7,291	7,244	47	----
National Aeronautics and Space Administration	29,971	29,963	8	----
Panama Canal	7,554	7,427	127	----
St. Lawrence Seaway Development Corporation	162	162	----	----
Tennessee Valley Authority	14,075	14,598	----	523
Virgin Islands Corporation	513	553	----	40
Total, excluding Department of Defense	88,350	88,858	185	693
Net decrease, excluding Department of Defense	----	----	508	
Department of Defense:				
Department of the Army:				
Inside the United States	[1] 135,144	[2] 135,370	----	226
Outside the United States	[1] 4,332	[2] 4,333	----	1
Department of the Navy:				
Inside the United States	194,758	[2] 195,462	----	704
Outside the United States	1,277	1,273	4	----
Department of the Air Force:				
Inside the United States	128,815	128,758	57	----
Outside the United States	1,065	1,083	----	18
Defense Supply Agency:				
Inside the United States	1,755	1,773	----	18
Total, Department of Defense	467,146	468,052	61	967
Net decrease, Department of Defense	----	----	906	
Grand total, including Department of Defense	555,496	556,910	246	1,660
Net decrease, including Department of Defense	----	----	1,414	

[1] Subject to revision.

[2] Revised on basis of later information.

TABLE V.—*Foreign nationals working under U.S. agencies overseas, excluded from tables I through IV of this report, whose services are provided by contractual agreement between the United States and foreign governments, or because of the nature of their work or the source of funds from which they are paid, as of October 1963 and comparison with September 1963*

Country	Total		Army		Navy		Air Force	
	October	September	October	September	October	September	October	September
Canada	24	24	----	----	----	----	24	24
Crete	82	83	----	----	----	----	82	83
England	2,883	2,987	----	----	120	119	2,763	2,868
France	20,843	21,175	17,061	17,321	11	12	3,771	3,842
Germany	77,691	77,619	65,707	65,633	84	85	11,900	11,901
Greece	259	258	----	----	----	----	259	258
Japan	50,034	50,236	17,481	17,638	14,365	[1] 14,332	18,188	18,266
Korea	6,210	6,226	6,210	6,226	----	----	----	----
Morocco	1,309	1,400	----	----	732	[1] 739	577	661
Netherlands	56	57	----	----	----	----	56	57
Trinidad	549	540	----	----	549	540	----	----
Total	159,940	160,605	106,459	106,818	15,861	15,827	37,620	37,960

[1] Revised on basis of later information.

FOREIGN NATIONALS

Table V segregates and accounts for certain categories of personal services rendered to the U.S. Government overseas, which cannot be regarded as ordinary direct employment.

This personal service is rendered to U.S. agencies overseas under agreements with the foreign governments. In most cases the employment is indirect. The foreign governments hire the employees. The U.S. military agencies in most cases administer or direct the activity.

Personnel hired and used under such circumstances cannot be properly considered in the same category as regular employment, but they are used and should be counted for what they are.

For this reason the Joint Committee on Reduction of Nonessential Federal Expenditures counts employees of this type along with, but separate from, regular U.S. employment overseas.

STATEMENT BY SENATOR BYRD OF VIRGINIA

Executive agencies of the Federal Government reported civilian employment in the month of October totaling 2,494,522, compared with 2,492,170 in September. This was a net increase of 2,352, including a net increase of 3,452 in temporary employment under the public works acceleration program authorized by Public Law 87-658.

Civilian employment reported by the executive agencies of the Federal Government, by months in fiscal year 1964, which began July 1, 1963, follows.

Month	Employment	Increase	Decrease
July	2,518,858	9,149	----
August	2,515,033	----	3,824
September	2,492,170	----	22,863
October	2,494,522	2,352	----

Total Federal employment in civilian agencies for the month of October was 1,449,115, an increase of 3,362 as compared with the September total of 1,445,753. Total civilian employment in the military agencies in October was 1,045,407, a decrease of 1,010 as compared with 1,046,417 in September.

Civilian agencies reporting larger increases were Post Office Department with 2,288, Interior Department with 1,459, and Veterans' Administration with 759. The larger decreases were in Agriculture Department with 911 and Tennessee Valley Authority with 522.

In the Department of Defense the largest decreases in civilian employment were reported by the Department of the Navy with 923 and the Department of the Army with 539. The Department of the Air Force reported the largest increase with 310.

Inside the United States civilian employment increased 1,383 and outside the United States employment increased 969. Industrial employment by Federal agencies in October totaled 555,496, a decrease of 1,414.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Nonessential Federal Expenditures.

FOREIGN NATIONALS

The total of 2,494,522 civilian employees certified to the committee by Federal agencies in their regular monthly personnel reports includes some foreign nationals employed in U.S. Government activities abroad, but in addition to these there were 159,940 foreign nationals working for U.S. agencies overseas during October who were not counted in the usual personnel reports. The number in September was 160,605. A breakdown of this employment for October follows:

Country	Total	Army	Navy	Air Force
Canada	24	----	----	24
Crete	82	----	----	82
England	2,883	----	120	2,763
France	20,843	17,061	11	3,771
Germany	77,691	65,707	84	11,990
Greece	259	----	----	259
Japan	50,034	17,481	14,365	18,188
Korea	6,210	6,210	----	----
Morocco	1,309	----	732	577
Netherlands	56	----	----	56
Trinidad	549	----	549	----
Total	159,940	106,459	15,861	37,620

REPORT OF JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES—FEDERAL STOCKPILE INVENTORIES

Mr. BYRD of Virginia. Mr. President, as chairman of the Joint Committee on Reduction of Nonessential Federal Expenditures, I submit a report on Federal stockpile inventories as of August 1963. I ask unanimous consent to have the report printed in the RECORD, together with a statement by me.

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

FEDERAL STOCKPILE INVENTORIES, AUGUST 1963

INTRODUCTION

This is the 45th in a series of monthly reports on Federal stockpile inventories. It is for the month of August 1963.

The report is compiled from official data on quantities and cost value of commodities in these stockpiles submitted to the Joint Committee on Reduction of Nonessential Federal Expenditures by the Departments of Agriculture, Defense, Health, Education, and Welfare, and Interior, and the General Services Administration.

The cost value of materials in inventories covered in this report, as of August 1, 1963, totaled $13,756,165,745, and as of August 31, 1963, they totaled $14,465,338,281, a net increase of $709,172,536 during the month.

Different units of measure make it impossible to summarize the quantities of commodities and materials which are shown in tables 1, 2, 3, 4, and 5, but the cost value figures are summarized by major category, as follows:

Summary of cost value of stockpile inventories by major category

Major category	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month
Strategic and critical materials:			
National stockpile [1]	$5,813,052,400	$5,804,537,900	−$8,514,500
Defense Production Act	1,496,434,900	1,493,255,200	−3,179,700
Supplemental—barter	1,340,697,172	1,345,059,356	+4,362,184
Total, strategic and critical materials [1]	8,650,184,472	8,642,852,456	−7,332,016
Agricultural commodities:			
Price-support inventory	4,652,255,144	5,367,471,967	+715,216,823
Inventory transferred from national stockpile [1]	126,990,583	126,369,680	−620,903
Total, agricultural commodities [1]	4,779,245,727	5,493,841,647	+714,595,920
Civil defense supplies and equipment:			
Civil defense stockpile, Department of Defense	35,470,752	35,430,457	−40,295
Civil defense medical stockpile, Department of Health, Education, and Welfare	189,727,955	190,348,652	+620,697
Total, civil defense supplies and equipment	225,198,707	225,779,109	+580,402
Machine tools:			
Defense Production Act	2,208,600	2,208,600	
National Industrial Reserve Act	90,108,500	89,665,700	−442,800
Total, machine tools	92,317,100	91,874,300	−442,800
Helium	9,219,739	10,990,769	+1,771,030
Total, all inventories	13,756,165,745	14,465,338,281	+709,172,536

[1] Cotton inventory valued at $128,409,100 withdrawn from the national stockpile and transferred to Commodity Credit Corporation for disposal, pursuant to Public Law 87-548, during August 1962.

Detailed tables in this report show each commodity, by the major categories summarized above, in terms of quantity and cost value as of the beginning and end of the month. Net change figures reflect acquisitions, disposals, and accounting and other adjustments during the month.

The cost value figures represent generally the original acquisition cost of the commodities delivered to permanent storage locations, together with certain packaging, processing, upgrading, et cetera, costs as carried in agency inventory accounts. Quantities are stated in the designated stockpile unit of measure.

Appendix A to this report includes program descriptions and statutory citations pertinent to each stockpile inventory within the major categories.

The stockpile inventories covered by the report are tabulated in detail as follows:

Table 1: Strategic and critical materials inventories (all grades), August 1963 (showing by commodity net changes during the month in terms of cost value and quantity, and excesses over maximum objectives in terms of quantity as of the end of the month).

Table 2: Agricultural commodities inventories, August 1963 (showing by commodity net changes during the month in terms of cost value and quantity).

Table 3: Civil defense supplies and equipment inventories, August 1963 (showing by item net changes during the month in terms of cost value and quantity).

Table 4: Machine tools inventories August 1963 (showing by item net changes during the month in terms of cost value and quantity).

Table 5: Helium inventories, August 1963 (showing by item net changes during the month in terms of cost value and quantity).

New stockpile objectives

The Office of Emergency Planning is in the process of establishing new objectives for strategic and critical materials. Table 1 of this report reflects the new objectives for 12 materials.

Appendix B contains excerpts from the Office of Emergency Planning statement setting for the new policy with respect to objectives for strategic and critical materials.

TABLE 1.—*Strategic and critical materials inventories (all grades), August 1963 (showing by commodity net changes during the month in terms of cost value and quantity, and excesses over maximum objectives in terms of quantity as of the end of the month)*

Commodity	Cost value			Quantity					
	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Unit of measure	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Maximum objective [1]	Excess over maximum objective
Aluminum, metal:									
National stockpile	$487,680,600	$487,680,600		Short ton	1,128,989	1,128,989			
Defense Production Act	435,124,700	432,989,500	−$2,135,200	do	861,710	857,587	−4,123		
Total	922,805,300	920,670,100	−2,135,200	do	1,990,699	1,986,576	−4,123	[2] 450,000	1,536,576
Aluminum oxide, abrasive grain:									
Supplemental—barter	14,129,453	14,569,297	+439,844	do	47,369	47,894	+525	[3]	47,894
Aluminum oxide, fused, crude:									
National stockpile	21,735,100	21,735,100		Short dry ton	200,093	200,093			
Supplemental—barter	22,747,400	22,747,400		do	178,266	178,266			
Total	44,482,500	44,482,500		do	378,359	378,359		200,000	178,359
Antimony:									
National stockpile	20,488,000	20,488,000		Short ton	30,301	30,301			
Supplemental—barter	12,501,785	12,575,753	+73,968	do	21,483	21,582	+99		
Total	32,989,785	33,063,753	+73,968	do	51,784	51,883	+99	70,000	[4]
Asbestos, amosite:									
National stockpile	2,637,600	2,637,600		do	11,705	11,705			
Supplemental—barter	6,468,914	6,789,574	+320,660	do	26,239	27,365	+1,126		
Total	9,106,514	9,427,174	+320,660	do	37,944	39,070	+1,126	45,000	[4]
Asbestos, chrysolite:									
National stockpile	3,356,200	3,356,200		Short dry ton	6,224	6,224			
Defense Production Act	2,102,600	2,102,600		do	2,348	2,348			
Supplemental—barter	3,934,500	3,934,500		do	5,532	5,532			
Total	9,393,300	9,393,300		do	14,104	14,104		11,000	3,104
Asbestos, crocidolite:									
National stockpile	702,100	702,100		Short ton	1,567	1,567			
Supplemental—barter	7,236,190	7,278,290	+42,100	do	27,438	27,438			
Total	7,938,290	7,980,390	+42,100	do	29,005	29,005		[3]	29,005

See footnotes at end of table.

TABLE 1.—*Strategic and critical materials inventories (all grades), April 1963 (showing by commodity net changes during the month in terms of cost value and quantity, and excesses over maximum objectives in terms of quantity as of the end of the month)*—Continued

Commodity	Cost value			Quantity					
	Beginning of month, Apr. 1, 1963	End of month, Apr. 30, 1963	Net change during month	Unit of measure	Beginning of month, Apr. 1, 1963	End of month, Apr. 30, 1963	Net change during month	Maximum objective [1]	Excess over maximum objective
Bauxite, metal grade, Jamaica type:									
National stockpile	$13,925,000	$13,925,000		Long dry ton	879,740	879,740			
Defense Production Act	18,168,000	18,168,000		do	1,370,077	1,370,077			
Supplemental—barter	89,353,258	89,398,758	+$45,500	do	5,780,590	5,780,590			
Total	121,446,258	121,491,758	+45,500	do	8,030,407	8,030,407		2,600,000	5,430,407
Bauxite, metal grade, Surinam type:									
National stockpile	78,552,500	78,552,500		do	4,962,706	4,962,706			
Supplemental—barter	45,326,200	45,294,200	−32,000	do	2,927,260	2,927,260			
Total	123,878,700	123,846,700	−32,000	do	7,889,966	7,889,966		6,400,000	1,489,966
Bauxite, refractory grade:									
National stockpile	11,347,800	11,347,800		Long calcined ton.	299,279	299,279		137,000	162,279
Beryl:									
National stockpile	9,768,400	9,768,400		Short ton	23,230	23,230			
Defense Production Act	1,425,800	1,425,800		do	2,543	2,543			
Supplemental—barter	22,788,000	22,788,000		do	11,321	11,321			
Total	33,982,200	33,982,200		do	37,094	37,094		23,100	13,994
Beryllium metal:									
Supplemental—barter	14,253,383	15,363,012	+1,109,629	do	123	132	+9	[3]	132
Bismuth:									
National stockpile	2,674,300	2,674,300		Pound	1,342,402	1,342,402			
Defense Production Act	52,400	52,400		do	22,901	22,910			
Supplemental—barter	5,540,200	5,540,200		do	2,506,493	2,506,493			
Total	8,266,900	8,266,900		do	3,871,796	3,871,796		3,000,000	871,796
Cadmium:									
National stockpile	20,327,700	19,760,500	−567,200	do	10,354,727	10,065,810	−288,917		
Supplemental—barter	12,327,700	12,327,600	−100	do	7,448,989	7,448,989			
Total	32,655,400	32,088,100	−567,300	do	17,803,716	17,514,799	−288,917	6,500,000	11,014,799
Castor oil:									
National stockpile	51,290,600	50,914,100	−376,500	do	196,035,582	194,194,997	−1,840,585	[2] 22,000,000	172,194,997
Celestite:									
National stockpile	1,412,300	1,412,300		Short dry ton	28,816	28,816			
Supplemental—barter	225,646	225,646		do	5,416	5,416			
Total	1,637,946	1,637,946		do	34,232	34,232		22,000	12,232
Chromite, chemical grade:									
National stockpile	12,288,000	12,288,000		do	559,452	559,452			
Supplemental—barter	21,766,349	21,841,249	+74,900	do	699,654	699,654			
Total	34,054,349	34,129,249	+74,900	do	1,259,106	1,259,106		475,000	784,106
Chromite, metallurgical grade:									
National stockpile	264,674,600	264,565,500	−109,100	do	3,797,409	3,795,292	−2,117		
Defense Production Act	35,879,900	35,879,900		do	985,646	985,646			
Supplemental—barter	224,671,600	224,759,700	+88,100	do	1,543,114	1,543,113	−1		
Total	525,226,100	525,205,100	−21,000	do	6,326,169	6,324,051	−2,118	[2] 2,970,000	3,354,051
Chromite, refractory grade:									
National stockpile	25,149,300	25,149,300		do	1,047,159	1,047,159			
Supplemental—barter	5,039,000	5,039,000		do	179,775	179,775			
Total	30,188,300	30,188,300		do	1,226,934	1,226,934		1,300,000	[4]
Cobalt:									
National stockpile	169,238,700	169,205,200	−33,500	Pound	76,725,545	76,711,860	−13,685		
Defense Production Act	52,074,600	52,074,600		do	25,194,122	25,194,122			
Supplemental—barter	2,169,000	2,169,000		do	1,077,018	1,077,018			
Total	223,482,300	223,448,800	−33,500	do	102,996,685	102,983,000	−13,685	19,000,000	83,983,000
Coconut oil:									
National stockpile	12,706,400	11,341,500	−1,364,900	do	83,841,206	74,839,083	−9,002,123	[3]	74,839,083
Colemanite:									
Supplemental—barter	2,636,400	2,636,400		Long dry ton	67,636	67,636		[3]	67,636
Columbium:									
National stockpile	23,919,200	23,919,200		Pound	7,487,499	7,505,853	+18,354		
Defense Production Act	50,238,900	50,238,900		do	8,222,684	8,222,684			
Supplemental—barter	799,100	799,100		do	388,877	388,877			
Total	74,957,200	74,957,200		do	16,099,060	16,117,414	+18,354	1,900,000	14,207,414
Copper:									
National stockpile	522,727,200	522,749,800	+22,600	Short ton	1,008,273	1,008,273			
Defense Production Act	59,918,400	59,181,800	−736,600	do	106,812	105,463	−1,349		
Supplemental—barter	8,150,100	8,170,000	+19,900	do	12,382	12,381	−1		
Total	590,795,700	590,101,600	−694,100	do	1,127,467	1,126,117	−1,350	[2] 775,000	351,117
Cordage fibers, abaca:									
National stockpile	37,740,900	37,740,300	−600	Pound	149,736,028	149,736,028		150,000,000	[4]
Cordage fibers, sisal:									
National stockpile	42,779,500	42,779,500	−3,600	do	316,123,573	316,123,573		320,000,000	[4]
Corundum:									
National stockpile	393,100	393,100		Short ton	2,008	2,008		2,000	8

See footnotes at end of table.

TABLE 1.—*Strategic and critical materials inventories (all grades), April 1963 (showing by commodity net changes during the month in terms of cost value and quantity, and excesses over maximum objectives in terms of quantity as of the end of the month)*—Continued

Commodity	Cost value			Quantity					
	Beginning of month, Apr. 1, 1963	End of month, Apr. 30, 1963	Net change during month	Unit of measure	Beginning of month, Apr. 1, 1963	End of month, Apr. 30, 1963	Net change during month	Maximum objective [1]	Excess over maximum objective
Cryolite:									
Defense Production Act	$7,092,000	$7,024,000	−$67,300	Short ton	25,683	25,439	−244	[3]	25,439
Diamond dies:									
National stockpile	488,100	489,100	+1,000	Piece	16,201	16,231	+30	25,000	[4]
Diamond, industrial, crushing bort:									
National stockpile	61,609,500	61,609,500		Carat	31,113,411	31,113,411			
Supplemental—barter	15,800,500	15,800,500		do	5,550,579	5,550,579			
Total	77,410,000	77,410,000		do	36,663,990	36,663,990		30,000,000	6,663,990
Diamond, industrial, stones:									
National stockpile	100,501,500	100,501,500		do	9,315,183	9,315,183			
Supplemental—barter	186,324,500	186,324,500		do	15,425,827	15,425,827			
Total	286,826,000	286,826,000		do	24,741,010	24,741,010		18,000,000	6,741,010
Diamond tools:									
National stockpile	1,015,400	1,015,400		Piece	64,178	64,178		[3]	64,178
Feathers and down:									
National stockpile	37,505,000	37,481,000	−24,000	Pound	9,052,886	9,047,078	−5,808	[2] 3,000,000	6,047,078
Fluorspar, acid grade:									
National stockpile	26,167,500	26,167,500		Short dry ton	463,049	463,049			
Defense Production Act	1,394,400	1,394,400		do	19,700	19,700			
Supplemental—barter	33,528,800	33,530,700	+1,900	do	673,232	673,232			
Total	61,090,700	61,092,600	+1,900	do	1,155,981	1,155,981		280,000	875,981
Fluorspar, metallurgical grade:									
National stockpile	17,332,400	17,332,400		do	369,443	369,443			
Supplemental—barter	1,508,100	1,508,100		do	42,800	42,800			
Total	18,840,500	18,840,500		do	412,243	412,243		375,000	37,243
Graphite, natural, Ceylon, amorphous lump:									
National stockpile	937,900	937,900		do	4,455	4,455			
Supplemental—barter	341,200	341,200		do	1,428	1,428			
Total	1,279,100	1,279,100		do	5,883	5,883		3,600	2,283
Graphite, natural, Madagascar, crystalline:									
National stockpile	7,056,200	7,056,200		do	34,233	34,233			
Supplemental—barter	221,143	230,343	+9,200	do	1,907	1,907			
Total	7,277,343	7,286,543	+9,200	do	36,140	36,140		17,200	18,940
Graphite, natural, other, crystalline:									
National stockpile	1,896,300	1,896,300		do	5,487	5,487		2,100	3,387
Hyoscine:									
National stockpile	30,600	30,600		Ounce	2,100	2,100		2,100	[4]
Iodine:									
National stockpile	4,082,000	4,082,000		Pound	2,977,648	2,977,648			
Supplemental—barter	1,066,000	1,066,000		do	994,920	994,920			
Total	5,148,000	5,148,000		do	3,972,568	3,972,568		4,300,000	[4]
Iridium:									
National stockpile	2,525,800	2,525,800		Troy ounce	13,937	13,937		4,000	9,937
Jewel bearings:									
National stockpile	4,110,500	4,110,500		Piece	51,387,563	51,387,563		57,500,000	[4]
Kyanite-mullite:									
National stockpile	798,800	794,500	−4,300	Short dry ton	9,239	9,190	−49	4,800	4,390
Lead:									
National stockpile	319,298,100	319,298,100		Short ton	1,050,370	1,050,370			
Defense Production Act	1,696,600	1,668,100	−28,500	do	4,479	4,403	−76		
Supplemental—barter	78,398,600	78,398,600		do	327,998	327,998			
Total	399,393,300	399,364,800	−28,500	do	1,382,847	1,382,771	−76	[2] 0	1,382,771
Magnesium:									
National stockpile	130,600,300	130,253,600	−346,700	do	179,896	179,420	−476	107,000	72,420
Manganese, battery grade, natural ore:									
National stockpile	21,025,500	21,025,500		do	144,485	144,485			
Supplemental—barter	13,621,900	13,621,900		do	137,700	137,700			
Total	34,647,400	34,647,400		do	282,185	282,185		50,000	232,185
Manganese, battery grade, synthetic dioxide:									
National stockpile	3,095,500	3,095,500		Short dry ton	21,272	21,272			
Defense Production Act	2,524,700	2,524,700		do	3,779	3,779			
Total	5,620,200	5,620,200		do	25,051	25,051		20,000	5,051
Manganese, chemical grade, type A:									
National stockpile	2,133,300	2,133,300		do	29,307	29,307			
Supplemental—barter	7,898,600	7,917,200	+18,600	do	117,607	117,607			
Total	10,031,900	10,050,500	+18,600	do	146,914	146,914		30,000	116,914

See footnotes at end of table.

TABLE 1.—*Strategic and critical materials inventories (all grades), April 1963 (showing by commodity net changes during the month in terms of cost value and quantity, and excesses over maximum objectives in terms of quantity as of the end of the month)*—Continued

Commodity	Cost value			Quantity					
	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Unit of measure	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Maximum objective [1]	Excess over maximum objective
Manganese, chemical grade, type B:									
National stockpile	$132,600	$132,600		Short dry ton	1,822	1,822			
Supplemental—barter	6,683,300	6,665,700	−$17,600	do	99,016	99,016			
Total	6,815,900	6,798,300	−17,600	do	100,838	100,838		53,000	47,838
Manganese, metallurgical grade:									
National stockpile	248,240,300	248,240,300		do	5,851,264	5,851,264			
Defense Production Act	176,474,400	176,474,400		do	3,056,691	3,056,691			
Supplemental—barter	236,271,711	238,019,670	+1,747,959	do	3,504,706	3,555,080	+50,374		
Total	660,986,411	662,734,370	+1,747,959	do	12,412,661	12,463,035	+50,374	6,800,000	5,663,035
Mercury:									
National stockpile	20,039,500	20,039,500		Flask	129,525	129,525			
Supplemental—barter	3,446,200	3,446,200		do	16,000	16,000			
Total	23,485,700	23,485,700		do	145,525	145,525		[2] 200,000	(4)
Mica, muscovite block:									
National stockpile	27,631,200	27,630,800	−400	Pound	11,621,211	11,621,031	−180		
Defense Production Act	40,857,700	40,856,900	−800	do	6,456,251	6,456,024	−227		
Supplemental—barter	5,100,741	5,266,011	+165,270	do	1,536,182	1,585,807	+49,625		
Total	73,589,641	73,753,711	+164,070	do	19,613,644	19,662,862	+49,218	8,300,000	11,342,862
Mica, muscovite film:									
National stockpile	9,058,100	9,058,100		do	1,733,083	1,733,083			
Defense Production Act	633,300	633,300		do	102,681	102,681			
Supplemental—barter	1,001,362	1,033,612	+32,250	do	102,614	105,640	+3,026		
Total	10,692,762	10,725,012	+32,250	do	1,938,378	1,941,404	+3,026	1,300,000	641,404
Mica, muscovite splittings:									
National stockpile	40,598,300	40,598,300		do	40,040,294	40,040,294			
Supplemental—barter	6,225,800	6,225,800		do	4,826,257	4,826,257			
Total	46,824,100	46,824,100		do	44,866,551	44,866,551		21,200,000	23,666,551
Mica, phlogopite block:									
National stockpile	303,600	303,600		do	223,239	223,239		17,000	206,239
Mica, phlogopite splittings:									
National stockpile	2,580,500	2,580,500		do	3,079,062	3,079,062			
Supplemental—barter	2,379,579	2,399,384	+19,805	do	1,971,397	1,985,474	+14,077		
Total	4,960,079	4,979,884	+19,805	do	5,050,459	5,064,536	+14,077	1,700,000	3,364,536
Molybdenum:									
National stockpile	84,196,200	84,196,800	+600	do	79,513,992	79,513,992		59,000,000	20,513,992
Nickel:									
National stockpile	181,978,100	181,978,100		do	334,272,028	334,274,346	+2,318		
Defense Production Act	102,162,900	102,053,500	−109,400	do	107,050,155	106,842,433	−207,722		
Total	284,141,000	284,031,600	−109,400	do	441,322,183	441,116,779	−205,404	[2] 100,000,000	341,116,779
Opium:									
National stockpile	13,661,700	13,661,700		do	195,757	195,757		[2] 141,280	54,477
Paladium:									
National stockpile	2,079,000	2,079,000		Troy ounce	89,811	89,811			
Defense Production Act	177,300	177,300		do	7,884	7,884			
Supplemental—barter	12,170,200	12,170,200		do	648,124	648,124			
Total	14,426,500	14,426,500		do	745,819	745,819		340,000	405,819
Palm oil:									
National stockpile	4,509,500	4,409,400	−100,100	Pound	25,053,989	24,497,878	−556,111	(3)	24,497,878
Platinum:									
National stockpile	56,879,900	56,879,900		Troy ounce	716,343	716,343			
Supplemental—barter	4,024,500	4,024,500		do	49,999	49,999			
Total	60,904,400	60,904,400		do	766,342	766,342		165,000	601,342
Pyrethrum:									
National stockpile	415,100	415,100		Pound	67,065	67,065		66,000	1,065
Quartz crystals:									
National stockpile	69,060,700	69,060,700		do	5,601,481	5,598,672	−2,809		
Supplemental—barter	3,128,700	3,200,900	+72,200	do	232,352	232,352			
Total	72,189,400	72,261,600	+72,200	do	5,833,833	5,831,024	−2,809	650,000	5,181,024
Quinidine:									
National stockpile	2,010,900	1,942,800	−68,100	Ounce	1,743,377	1,684,377	−59,000	1,600,000	84,377
Quinine:									
National stockpile	3,622,600	3,622,600		do	5,727,732	5,727,732		(3)	5,727,732
Rare earths:									
National stockpile	7,134,900	7,134,900		Short dry ton	10,042	10,042			
Supplemental—barter	5,748,920	5,774,409	+25,489	do	7,492	6,264	−1,228		
Total	12,883,820	12,909,309	+25,489	do	17,534	16,306	−1,228	5,700	10,606
Rare earths residue:									
Defense Production Act	657,800	657,800		Pound	6,085,570	6,085,327	−243	(3)	6,085,327

See footnotes at end of table.

TABLE 1.—*Strategic and critical materials inventories (all grades), April 1963 (showing by commodity net changes during the month in terms of cost value and quantity, and excesses over maximum objectives in terms of quantity as of the end of the month)*—Continued

Commodity	Cost value			Quantity					
	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Unit of measure	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Maximum objective [1]	Excess over maximum objective
Rhodium:									
National stockpile	$78,200	$78,200		Troy ounce	618	618		(3)	618
Rubber:									
National stockpile	764,548,400	760,533,100	−$4,015,300	Long ton	988,855	983,668	−5,187	750,000	233,668
Ruthenium:									
Supplemental—barter	559,500	559,500		Troy ounce	15,001	15,001		(3)	15,001
Rutile:									
National stockpile	2,070,100	2,070,100		Short dry ton	18,599	18,599			
Defense Production Act	2,725,100	2,725,100		do	17,410	17,410			
Supplemental—barter	1,061,300	1,061,300		do	11,632	11,632			
Total	5,856,500	5,856,500		do	47,641	47,641		65,000	(4)
Rutile chlorinator charge:									
Defense Production Act				do	6,817	2,923	−3,894	(3)	2,923
Sapphire and ruby:									
National stockpile	190,000	190,000		Carat	16,187,500	16,187,500		18,000,000	(4)
Selenium:									
National stockpile	757,100	757,100		Pound	97,100	97,100			
Supplemental—barter	1,070,500	1,070,500		do	156,518	156,518			
Total	1,827,600	1,827,600		do	253,618	253,618		400,000	(4)
Shellac:									
National stockpile	8,605,400	8,589,000	−16,400	do	17,165,033	17,132,260	−32,773	7,400,000	9,732,260
Silicon carbide, crude:									
National stockpile	11,394,500	11,394,500		Short ton	64,697	64,697			
Supplemental—barter	26,802,700	26,802,700		do	131,805	131,805			
Total	38,197,200	38,197,200		do	196,502	196,502		100,000	96,502
Silk noils and waste:									
National stockpile	1,607,900	1,441,200	−166,700	Pound	1,219,013	1,112,950	−106,063	970,000	142,950
Silk, raw:									
National stockpile	486,600	486,600		do	113,515	113,515		120,000	(4)
Sperm oil:									
National stockpile	4,775,400	4,775,400		do	23,442,158	23,442,158		[2] 23,400,000	42,158
Talc, steatite block and lump:									
National stockpile	496,800	496,800		Short ton	1,274	1,274		300	974
Talc, steatite ground:									
National stockpile	231,200	231,200		do	3,901	3,901		(3)	3,901
Tantalum:									
National stockpile	10,992,700	10,992,700		Pound	3,420,478	3,443,657	+23,179		
Defense Production Act	9,734,400	9,734,400		do	1,531,366	1,531,366			
Supplemental—barter	21,100	21,100		do	8,036	8,036			
Total	20,748,200	20,748,200		do	4,959,880	4,983,059	+23,179	2,420,000	2,563,059
Thorium:									
Defense Production Act	42,000	42,000		do	848,354	848,354			
Supplemental—barter	17,486,238	17,590,648	+104,410	do	8,440,675	8,481,100	+40,425		
Total	17,528,238	17,632,648	+104,410	do	9,289,029	9,329,454	+40,425	(3)	9,329,454
Tin:									
National stockpile	816,070,600	814,755,400	−1,315,200	Long ton	335,622	335,081	−541		
Supplemental—barter	16,404,000	16,404,000		do	7,505	7,505			
Total	832,474,600	831,159,400	−1,315,200	do	343,127	342,586	−541	[2] 200,000	142,586
Titanium:									
Defense Production Act	176,463,100	176,361,200	−101,900	Short ton	22,415	22,403	−12		
Supplemental—barter	32,097,700	32,097,700		do	9,021	9,021			
Total	208,560,800	208,458,900	−101,900	do	31,436	31,424	−12	(3)	31,424
Tungsten:									
National stockpile	369,127,300	369,127,300		Pound	120,071,339	120,071,339			
Defense Production Act	318,813,900	318,813,900		do	78,186,563	78,186,563			
Supplemental—barter	18,651,400	18,651,400		do	5,774,827	5,774,827			
Total	706,592,600	706,592,600		do	204,032,729	204,032,729		50,000,000	154,032,729
Vanadium:									
National stockpile	31,567,900	31,567,900		do	15,730,893	15,730,893		2,000,000	13,730,893
Vegetable tannin extract, chestnut:									
National stockpile	11,932,800	11,932,800		Long ton	42,770	42,770		30,000	12,770
Vegetable tannin extract, quebracho:									
National stockpile	49,188,200	49,169,700	−18,500	do	198,803	198,728	−75	180,000	18,728
Vegetable tannin extract, wattle:									
National stockpile	9,826,900	9,826,900		do	38,962	38,962		39,000	(4)

See footnotes at end of table.

TABLE 1.—*Strategic and critical materials inventories (all grades), April 1963 (showing by commodity net changes during the month in terms of cost value and quantity, and excesses over maximum objectives in terms of quantity as of the end of the month)*—Continued

Commodity	Cost value			Quantity					
	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Unit of measure	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Maximum objective	Excess over maximum objective
Zinc:									
National stockpile	$364,346,400	$364,346,400		Short ton	1,256,848	1,256,848			
Supplemental—barter	79,588,200	79,588,400	+$200	do	323,896	323,896			
Total	443,934,600	443,934,800	+200	do	1,580,744	1,580,744		[2] 0	1,580,744
Zirconium ore, baddeleyite:									
National stockpile	710,600	710,600		Short dry ton	16,533	16,533		[3]	16,533
Zirconium ore, zircon:									
National stockpile	189,400	181,800	−7,600	do	3,201	3,072	−129	[3]	3,072
Total:									
National stockpile	5,813,052,400	5,804,537,900	−8,514,500						
Defense Production Act	1,496,434,900	1,493,255,200	−3,179,700						
Supplemental—barter	1,340,697,172	1,345,059,356	+4,362,184						
Total, strategic and critical materials	8,650,184,472	8,642,852,456	−7,332,016						

[1] Maximum objectives for strategic and critical materials are determined pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h). The Office of Emergency Planning is currently in the process of revising stockpile objectives. (See app. B, p. 22469.)
[2] New objective. (See app. B, p. 22469.)
[3] No present objective.
[4] Not in excess of maximum objective.

Source: Compiled from reports submitted by the General Services Administration and the Department of Agriculture.

TABLE 2.—*Agricultural commodities inventories, August 1963 (showing by commodity net changes during the month in terms of cost value and quantity)*

Commodity	Cost value			Quantity			
	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Unit of measure	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month
Price-support inventory:							
Basic commodities:							
Corn	$601,698,233	$771,731,750	+$170,033,517	Bushel	490,441,161	627,434,170	+136,993,009
Cotton, extra-long staple	4,350,336	9,815,842	+5,465,506	Bale	15,865	37,075	+21,210
Cotton, upland	647,367,508	1,230,378,231	+583,010,723	do	3,749,501	7,453,137	+3,703,636
Peanuts, farmers' stock	10,262	6,119	−4,143	Pound	104,707	55,507	−49,200
Peanuts, shelled	11,725,345	11,492,722	−232,623	do	68,707,457	67,641,033	−1,066,424
Rice, milled	139,012	170,244	+31,232	Hundredweight	14,029	17,024	+2,995
Rice, rough	9,754,016	9,804,101	+50,085	do	1,831,950	1,840,269	+8,319
Wheat	2,159,184,221	2,132,036,542	−27,147,679	Bushel	1,077,964,550	1,064,042,832	−13,921,718
Bulgur	263,638	213,372	−50,266	Pound	4,854,112	3,945,790	−908,322
Total, basic commodities	3,434,492,571	4,165,648,923	+731,156,352				
Designated nonbasic commodities:							
Barley	43,174,088	43,577,332	+403,244	Bushel	49,981,957	50,427,635	+445,678
Grain sorghum	689,693,879	681,970,484	−7,723,395	do	627,204,171	619,186,434	−8,017,737
Milk and butterfat:							
Butter	230,980,899	212,620,464	−18,360,435	Pound	397,333,261	365,695,138	−31,638,123
Butter oil	75,812,629	87,325,166	+11,512,537	do	95,623,479	110,572,609	+14,949,130
Cheese	20,227,826	23,568,300	+3,340,474	do	53,861,359	62,539,239	+8,677,880
Ghee	1,751,446	1,545,175	−206,271	do	2,169,883	1,914,331	−255,552
Milk, dried	109,755,986	106,515,273	−3,240,713	do	744,533,582	723,099,301	−21,434,281
Oats	11,465,445	11,597,158	+131,713	Bushel	19,129,773	19,333,144	+203,371
Rye	1,701,701	1,722,504	+20,803	do	1,641,719	1,664,075	+22,356
Total, designated nonbasic commodities	1,184,563,899	1,170,441,856	−14,122,043				
Other nonbasic commodities:							
Beans, dry, edible	8,628,998	7,024,418	−1,604,580	Hundredweight	1,142,699	912,423	−230,276
Cottonseed oil, refined	290,040	622,250	+332,210	Pound	1,739,132	3,685,928	+1,946,796
Flaxseed	16,059,077	15,964,633	−94,444	Bushel	5,415,584	5,384,798	−30,786
Soybeans	5,234,345	5,859,143	+624,798	do	2,219,134	2,507,711	+288,577
Turpentine	45,240		−45,240	Gallon	86,209		−86,209
Vegetable oil products	2,940,974	1,910,744	−1,030,230	Pound	17,362,311	11,854,299	−5,508,012
Total, other nonbasic commodities	33,198,674	31,381,188	−1,817,486				
Total, price support inventory	4,652,255,144	5,367,471,967	+715,216,823				
Inventory transferred from national stockpile:[1]							
Cotton, Egyptian	103,256,435	102,640,561	−615,874	Bale	122,223	121,494	−729
Cotton, American-Egyptian	23,734,148	23,729,119	−5,029	do	47,188	47,178	−10
Total, inventory transferred from national stockpile.	126,990,583	126,369,680	−620,903	do	169,411	168,672	−739
Total, agricultural commodities	4,779,245,727	5,493,841,647	+714,595,920				

[1] Transferred from General Services Administration pursuant to Public Law 85-96 and Public Law 87-548. (See app. A, p. 22468.)

Source: Compiled from reports submitted by the Department of Agriculture.

TABLE 3.—*Civil defense supplies and equipment inventories, August 1963 (showing by item net changes during the month in terms of cost value and quantity)*

Item	Cost value			Quantity			
	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Unit of measure	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month
Civil defense stockpile, Department of Defense:							
Engineering equipment (engine generators, pumps, chlorinators, purifiers, pipe, and fittings).	$10,019,829	$10,022,623	+$2,794	10-mile units	45	45	
Chemical and biological equipment	1,814,233	1,806,793	−7,440	(1)			
Radiological equipment	23,636,690	23,601,041	−35,649	(1)			
Total	35,470,752	35,430,457	−40,295				
Civil defense medical stockpile, Department of Health, Education, and Welfare:							
Medical bulk stocks, and associated items at civil defense mobilization warehouses.	146,525,451	136,925,874	−9,599,577	(1)			
Medical bulk stock at manufacturer locations	5,305,582	5,330,284	+24,702	(1)			
Civil defense emergency hospitals	37,371,677	37,330,782	−40,895	Each	1,930	1,930	
Replenishment units (functional assemblies other than hospitals).	525,245	486,864	−38,381	(1)			
Supply additions (for civil defense emergency hospitals.		10,274,848	+10,274,848	(1)			
Total	189,727,955	190,348,652	+620,697				
Total, civil defense supplies and equipment	225,198,707	225,779,109	+580,402				

[1] Composite group of many different items.

Source: Compiled from reports submitted by the Department of Defense and the Department of Health, Education, and Welfare.

TABLE 4.—*Machine tools inventories, August 1963 (showing by item net changes during the month in terms of cost value and quantity)*

Item	Cost value			Quantity			
	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month	Unit of measure	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month
Defense Production Act:							
In storage	$21,400	$21,400		Tool	7	7	
On lease	2,144,300	3,144,300		do	103	103	
On loan	42,900	42,900		do	7	7	
Total	2,208,600	2,208,600		do	117	117	
National Industrial Reserve Act:							
In storage	79,933,300	79,487,200	−$446,100	do	7,193	7,172	−21
On lease	27,500	27,500		do	1	1	
On loan to other agencies	2,176,600	2,176,600		do	225	225	
On loan to school programs	7,971,100	7,974,400	+3,300	do	1,916	1,917	+1
Total	90,108,500	89,665,700	−442,800	do	9,335	9,315	−20
Total, machine tools	92,317,100	91,874,300	−442,800	do	9,452	9,432	−20

Source: Compiled from reports submitted by the General Services Administration.

TABLE 5.—*Helium inventories, August 1963 (showing by item net changes during the month in terms of cost value and quantity)*

Item	Cost value			Quantity			
	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during monh	Unit of measure	Beginning of month, Aug. 1, 1963	End of month, Aug. 31, 1963	Net change during month
Helium:							
Stored aboveground	$219,629	$231,806	+$12,177	Cubic foot	19,700,000	21,000,000	+1,300,000
Stored underground	9,000,110	10,758,963	+1,758,853	do	1,065,800,000	1,188,300,000	+122,500,000
Total, helium	9,219,739	10,990,769	+1,771,030	do	1,085,500,000	1,209,300,000	+123,800,000

Source: Compiled from reports submitted by the Department of the Interior.

APPENDIX A

PROGRAM DESCRIPTION AND STATUTORY CITATIONS

STRATEGIC AND CRITICAL MATERIAL

National stockpile

The Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98-98h) provides for the establishment and maintenance of a national stockpile of strategic and critical materials. The General Services Administration is responsible for making purchases of strategic and critical materials and providing for their storage, security, and maintenance. These functions are performed in accordance with directives issued by the Director of the Office of Emergency Planning. The act also provides for the transfer from other Government agencies of strategic and critical materials which are excess to the needs of such other agencies and are required to meet the stockpile objectives established by OEP. In addition, the General Services Administration is responsible for disposing of those strategic and critical materials which OEP determines to be no longer needed for stockpile purposes.

General policies for strategic and critical materials stockpiling are contained in DMO V–7, issued by the Director of the Office of Emergency Planning and published in the Federal Register of December 19, 1959 (24 F.R. 10309). Portions of this order relate also to Defense Production Act inventories.

Defense Production Act

Under section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) and Executive Order 10480, as amended, the General Services Administration is authorized to make purchases of or commitments to purchase metals, minerals, and other materials, for Government use or resale, in order to expand productive capacity and supply, and also to store the materials acquired as a result of such purchases or commitments. Such functions are carried out in accordance with programs certified by the Director of the Office of Emergency Planning.

Supplemental—barter

As a result of a delegation of authority from OEP (32A CFR, ch. I, DMO V–4) the General Services Administration is responsible for the maintenance and storage of materials placed in the supplemented stockpile. Section 206 of the Agricultural Act of 1956 (7 U.S.C. 1856) provides that strategic and other materials acquired by the Commodity Credit Corporation as a result of barter or exchange of agricultural products, unless acquired for the national stockpile or for other purposes, shall be transferred to the supplemental stockpile established by section 104 (b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(b)). In addition to the materials which have been or may be so acquired, the materials obtained under the programs established pursuant to the Domestic Tungsten, Asbestos, Fluorspar, and Columbium-Tantalum Production and Purchase Act of 1956 (50 U.S.C. App. 2191–2195), which terminated December 31, 1958, have been transferred to the supplemental stockpile, as authorized by the provisions of said Production and Purchase Act.

AGRICULTURAL COMMODITIES

The price-support program

Price-support operations are carried out under the charter powers (15 U.S.C. 714) of the Commodity Credit Corporation, Department of Agriculture, in conformity with the Agricultural Act of 1949 (7 U.S.C. 1421), the Agricultural Act of 1954 (7 U.S.C. 1741), which includes the National Wool Act of 1954, the Agricultural Act of 1956 (7 U.S.C. 1442), the Agricultural Act of 1958 and with respect to certain types of tobacco, in conformity with the act of July 28, 1945, as amended (7 U.S.C. 1312). Under the Agricultural Act of 1949, price support is mandatory for the basic commodities—corn, cotton, wheat, rice, peanuts, and tobacco—and specific nonbasic commodities; namely, tung nuts, honey, milk, butterfat, and the products of milk and butterfat. Under the Agricultural Act of 1958, as producers of corn voted in favor of the new price-support program for corn authorized by that act, price support is mandatory for barley, oats, rye, and grain sorghums. Price support for wool and mohair is mandatory under the National Wool Act of 1954, through the marketing year ending March 31, 1966. Price support for other nonbasic agricultural commodities is discretionary except that, whenever the price of either cottonseed or soybeans is supported, the price of the other must be supported at such level as the Secretary determines will cause them to compete on equal terms on the market. This program may also include operations to remove and dispose of or aid in the removal or disposition of surplus agricultural commodities for the purpose of stabilizing prices at levels not in excess of permissible price-support levels.

Price support is made available through loans, purchase agreements, purchases, and other operations, and, in the case of wool and mohair, through incentive payments based on marketings. The producers' commodities serve as collateral for price-support loans. With limited exceptions, price-support loans are nonrecourse and the Corporation looks only to the pledged or mortgage collateral for satisfaction of the loan. Purchase agreements generally are available during the same period that loans are available. By signing a purchase agreement, a producer receives an option to sell to the Corporation any quantity of the commodity which he may elect within the maximum specified in the agreement.

The major effect on budgetary expenditures is represented by the disbursements for price-support loans. The largest part of the commodity acquisitions under the program result from the forfeiting of commodities pledged as loan collateral for which the expenditures occurred at the time of making the loan, rather than at the time of acquiring the commodities.

Dispositions of commodities acquired by the Corporation in its price-support operations are made in compliance with sections 202, 407, and 416 of the Agricultural Act of 1949, and other applicable legislation, particularly the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691), title I of the Agricultural Act of 1954, title II of the Agricultural Act of 1956, the Agricultural Act of 1958, the act of August 19, 1958, in the case of cornmeal and wheat flour, and the act of September 21, 1959, with regard to sales of livestock feed in emergency areas.

Inventory transferred from national stockpile

This inventory, all cotton, was transferred to Commodity Credit Corporation at no cost from the national stockpile pursuant to Public Law 85–96 and Public Law 87–548. The proceeds from sales, less costs incurred by CCC, are covered into the Treasury as miscellaneous receipts; therefore, such proceeds and costs are not recorded in the operating accounts. The cost value as shown for this cotton has been computed on the basis of average per-bale cost of each type of cotton when purchased by CCC for the national stockpile.

CIVIL DEFENSE SUPPLIES AND EQUIPMENT

Civil defense stockpile

The Department of Defense conducts this stockpiling program pursuant to section 201(h) of Public Law 920, 81st Congress, as amended. The program is designed to provide some of the most essential materials to minimize the effects upon the civilian population which would be caused by an attack upon the United States. Supplies and equipment normally unavailable, or lacking in quantity needed to cope with such conditions, are stockpiled at strategic locations in a nationwide warehouse system consisting of general storage facilities.

Civil defense medical stockpile

The Department of Health, Education, and Welfare conducts the stockpiling program for medical supplies and equipment pursuant to section 201(h) of Public Law 920, 81st Congress, as delegated by the President following the intent of Reorganization Plan No. 1, 1958. The Department of Health, Education, and Welfare plans and directs the procurement, storage, maintenance, inspection, survey, distribution, and utilization of essential supplies and equipment for emergency health services. The medical stockpile includes a program designed to pre-position assembled emergency hospitals and other medical supplies and equipment into communities throughout the Nation.

MACHINE TOOLS

Defense Production Act

Under section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) and Executive Order 10480, as amended, the General Services Administration has acquired machine tools in furtherance of expansion of productive capacity, in accordance with programs certified by the Director of the Office of Emergency Planning.

National industrial equipment reserve

Under general policies established and directives issued by the Secretary of Defense, the General Services Administration is responsible for care, maintenance, utilization, transfer, leasing, lending to nonprofit schools, disposal, transportation, repair, restoration, and renovation of national industrial reserve equipment transferred to GSA under the National Industrial Reserve Act of 1948 (50 U.S.C. 451–462).

HELIUM

The helium conservation program is conducted by the Department of the Interior pursuant to the Helium Act, approved September 13, 1960 (Public Law 86–777; 74 Stat. 918; 50 U.S.C. 167), and subsequent appropriations acts which have established fiscal limitations and provided borrowing authority for the program. Among other things, the Helium Act authorizes the Secretary of the Interior to produce helium in Government plants, to acquire helium from private plants, to sell helium to meet current demands, and to store for future use helium that is so produced or acquired in excess of that required to meet current demands. Sales of helium by the Secretary of the Interior shall be at prices established by him which shall be adequate to liquidate the costs of the program within 25 years, except that this period may be extended by the Secretary for not more than 10 years for funds borrowed for purposes other than the acquisition and construction of helium plants and facilities.

This report covers helium that is produced in Government plants and acquired from private plants. Helium in excess of current demands is stored in the Cliffside gasfield near Amarillo, Tex. The unit of measure is cubic foot at 14.7 pounds per square inch absolute pressure and 70° F.

APPENDIX B

NEW STOCKPILE OBJECTIVES

The Office of Emergency Planning is in the process of establishing new objectives for strategic and critical materials. Table 1 of this report reflects the new objectives for 12 materials: aluminum, castor oil, chromite (metallurgical grade), copper, feathers and down, lead, mercury, nickel, opium, sperm oil, tin, and zinc.

The following excerpts from OEP statements dated July 11 and 19, 1963, set forth the new policy with respect to objectives for strategic and critical materials:

"The Office of Emergency Planning is now conducting supply-requirements studies for all stockpile materials which will reflect current military, industrial, and other essential needs in the event of a conventional war emergency. On the basis of recently completed supply-requirements studies for the foregoing materials, the new stockpile objectives were established with the advice and assistance of the Interdepartmental Materials Advisory Committee, a group chaired by the Office of Emergency Planning and composed of representatives of the Departments of State, Defense, the Interior, Agriculture, Commerce, and Labor, and the General Services Administration, the Agency for International Development, and the National Aeronautics and Space Administration. Representatives of the Bureau of the Budget, the Atomic Energy Commission, and the Small Business Administration participate as observers.

"These new objectives reflect a new policy to establish a single objective for each stockpile material. They have been determined on the basis of criteria heretofore used in establishing maximum objectives, and reflect the approximate calculated emergency deficits for the materials for conventional war and do not have any arbitrary adjustments for possible increased requirements for other types of emergency.

"Heretofore, there was a "basic objective" and a "maximum objective" for each material. The basic objectives assumed some continued reliance on foreign sources of supply in an emergency. The former maximum objectives completely discounted foreign sources of supply beyond North America and comparable accessible areas.

"Previously, maximum objectives could not be less than 6 months' normal usage of the material by industry in the United States

in periods of active demand. The 6-month rule has been eliminated in establishing the new calculated conventional war objectives.

"The Office of Emergency Planning also announced that the present Defense Mobilization Order V–7, dealing with general policies for strategic and critical materials stockpiling, was now being revised to reflect these new policies. When finally prepared and approved, the new order will be published in the Federal Register.

"New conventional war objectives for the remaining stockpile materials are being developed as rapidly as new supply-requirements data become available. They will be released as they are approved.

"The Office of Emergency Planning is also making studies to determine stockpile needs to meet the requirements of general nuclear war and reconstruction. Stockpile objectives for nuclear war have not previously been developed. Some commodity objectives may be higher and others may be lower than the objectives established for conventional war.

"After the nuclear war supply-requirements studies are completed, stockpile objectives will be based upon calculated deficits for either conventional war or nuclear war, whichever need is larger.

"The Office of Emergency Planning stressed that any long-range disposal programs undertaken prior to the development of objectives based on nuclear war assumptions would provide against disposing of quantities which might be needed to meet essential requirements in the event of nuclear attack. While the disposal of surplus materials can produce many problems which have not heretofore arisen, every effort will be made to see that the interests of producers, processors, and consumers, and the international interests of the United States are carefully considered, both in the development and carrying out of disposal programs. Before decisions are made regarding the adoption of a long-range disposal program for a particular item in the stockpile, there will be appropriate consultations with industry in order to obtain the advice of interested parties."

STATEMENT BY MR. BYRD OF VIRGINIA

The cost value of Federal stockpile inventories as of August 31, 1963, totaled $14,465,338,281. This was a net increase of $709,172,536 as compared with the August 1 total of $13,756,165,745.

Net changes during the month are summarized by major category as follows:

Major category	Cost value August 1963	
	Net change during month	Total, end of month
Strategic and critical materials	−$7,332,016	$8,642,852,456
Agricultural commodities	+714,595,920	5,493,841,647
Civil defense supplies and equipment	+580,402	225,779,109
Machine tools	−442,800	91,874,300
Helium	+1,771,030	10,990,769
Total	+709,172,536	14,465,338,281

These figures are from the August 1963 report on Federal stockpile inventories compiled from official agency data by the Joint Committee on Reduction of Nonessential Federal Expenditures, showing detail with respect to quantity and cost value of each commodity in the inventories covered.

STRATEGIC AND CRITICAL MATERIALS

So-called strategic and critical materials are stored by the Government in (1) the national stockpile, (2) the Defense Production Act inventory, and (3) the supplemental-barter stockpile.

Overall, there are now 94 materials stockpiled in the strategic and critical inventories. Maximum objectives—in terms of volume—are presently fixed for 76 of these 94 materials. Of the 76 materials having maximum objectives, 61 were stockpiled in excess of their objectives as of August 31, 1963.

The Office of Emergency Planning is in the process of establishing new objectives for strategic and critical materials. This report contains pertinent agency explanation and reflects the new objectives for 12 materials.

Increases in cost value were reported in 20 of the materials stockpiled in all strategic and critical inventories, decreases were reported in 26 materials, and 48 materials remained unchanged during August.

National stockpile: The cost value of materials in the national stockpile as of August 31, 1963, totaled $5,804,537,900. This was a net decrease of $8,514,500 during the month. The largest decreases were $4,015,300 in rubber, $1,364,900 in coconut oil and $1,315,200 in tin.

Defense Production Act inventory: The cost value of materials in the Defense Production Act inventory as of August 31 1963, totaled $1,493,255,200. This was a net decrease of $3,179,700. The largest decrease was $2,135,200 in aluminum.

Supplemental-barter: The cost value of materials in the supplemental-barter stockpile as of August 31 totaled $1,345,059,356. This was a net increase of $4,362,184. The largest increases were in manganese and beryllium metal.

OTHER STOCKPILE INVENTORIES

Among the other categories of stockpiled materials covered by the report, the largest is $5.5 billion in agricultural commodities. Major increases in agricultural commodities during August were reported for cotton and corn, partially offset by decreases in wheat and grain sorghum.

Inventories of civil defense supplies and equipment showed increases in medical stocks; the machine tools inventories showed a net decrease; and the helium inventories showed an increase during August.

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. MORSE:

S. 2367. A bill concerning low-interest loans to needy students to pursue courses of study in trade schools, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. KEATING:

S. 2368. A bill for the relief of Giovanni Gigante; to the Committee on the Judiciary.

By Mr. CARLSON (for himself and Mr. PEARSON):

S. 2369. A bill to retrocede to the State of Kansas exclusive jurisdiction over certain State highways bordering Fort Leavenworth Military Reservation and the U.S. Penitentiary at Leavenworth; to the Committee on Armed Services.

By Mr. ANDERSON (for himself and Mr. MECHEM):

S. 2370. A bill authorizing maintenance of flood and arroyo sediment control dams and related works to facilitate Rio Grande canalization project and authorized appropriations for that purpose; to the Committee on Agriculture and Forestry.

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

By Mr. RUSSELL (for himself and Mr. COOPER):

S.J. Res. 137. Joint resolution authorizing the Commission established to report upon the assassination of President John F. Kennedy to compel the attendance and testimony of witnesses and the production of evidence; ordered to lie on the table.

(See the remarks of Mr. RUSSELL when he introduced the above joint resolution, which appear under a separate heading.)

CONCURRENT RESOLUTION

PRINTING OF REPORT ENTITLED "PERSONNEL ADMINISTRATION AND OPERATIONS OF AGENCY FOR INTERNATIONAL DEVELOPMENT"

Mr. McGEE submitted the following concurrent resolution (S. Con. Res. 68); which was referred to the Committee on Rules and Administration:

Resolved by the Senate (the House of Representatives concurring), That there be printed as a Senate document a report entitled "Personnel Administration and Operations of Agency for International Development", submitted by Senator GALE W. MCGEE to the Committee on Appropriations and that ten thousand additional copies be printed for the use of that committee.

LOANS TO ASSIST NEEDY STUDENTS ATTENDING TRADE AND TECHNICAL SCHOOLS

Mr. MORSE. Mr. President, I send to the desk for appropriate reference a bill which would establish a system of student loans to assist needy students attending trade and technical schools.

A companion measure is today being introduced in the House of Representatives by the Honorable JOHN H. DENT, of Pennsylvania, who is chairman of the House Select Subcommittee on Education.

The program recognizes the economic needs of great numbers of young people who do not pursue college training after leaving high school. The loan program which is modeled on the very successful student loan program in the National Defense Education Act, would be made available to students pursuing a course of study in a trade or technical school. In order to qualify for loans, such students must either be enrolled in or accepted for training in schools which are licensed by the State to provide training and schooling in vocational subjects.

There are a great many highly motivated young people who unfortunately are children of unemployed parents and, therefore, find it impossible to attend schools wherein they may acquire trades and vocational skills. Providing financial help through repayable loans for such young people will contribute greatly to reducing unemployment and will help trainees to prepare for employment in the technological and highly skilled fields which currently are in need of more workers than are qualified to do the work required.

Enactment of such a program, in my judgment, will meet a need in the vocational education program in a manner which can scarcely be met in any other way. It complements and supplements the vocational training programs we are seeking to provide under H.R. 4955 now in conference. It is my hope that careful consideration can be given to this legis-

lation by the committee prior to the end of the 88th Congress.

Mr. President, I ask unanimous consent that the bill may be printed at this point in my remarks.

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

The bill (S. 2367) concerning low-interest loans to needy students to pursue courses of study in trade schools, and for other purposes, introduced by Mr. MORSE, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, 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,

APPROPRIATIONS AUTHORIZED

SECTION 1. For the purpose of enabling the Commissioner to stimulate and assist in the establishment at trade schools of funds for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions, there are hereby authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1965, $12,000,000 for the fiscal year ending June 30, 1966, $15,000,000 for the fiscal year ending June 30, 1967, and such sums for the fiscal year ending June 30, 1963, as may be necessary to enable students who have received a loan for any school year ending prior to July 1, 1967, to continue or complete their education. Sums appropriated under this section for any fiscal year shall be available, in accordance with agreements between the Commissioner and trade schools, for payment of Federal capital contributions which, together with contributions from the institutions, shall be used for establishment and maintenance of student loan funds.

ALLOTMENTS TO STATES

SEC. 2 (a) From the sums appropriated pursuant to section 201 for any fiscal year ending prior to July 1, 1967, the Commissioner shall allot to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in trade schools in such State bears to the total number of persons enrolled on a full-time basis in trade schools in all of the States. The number of persons enrolled on a full-time basis in trade schools for purposes of this section shall be determined by the Commissioner for the most recent year for which satisfactory data are available to him.

(b) Sums appropriated pursuant to section 1 for the fiscal year ending June 30, 1968, shall be allotted among the States in such manner as the Commissioner determines to be necessary to carry out the purpose for which such amounts are appropriated.

PAYMENT OF FEDERAL CAPITAL CONTRIBUTIONS

SEC. 3. (a) The Commissioner shall from time to time set dates by which trade schools in a State must file applications for Federal capital contributions from the allotment of such State. In the event the total requested in such applications, which are made by schools with which he has agreements under this Act and which meet the requirements established in regulations of the Commissioner, exceeds the amount of the allotment of such State available for such purpose, the Federal capital contribution from such allotment to each such school shall bear the same ratio to the amount requested in its application as the amount of such allotment available for such purpose bears to the total requested in all such applications. In the event the total requested in such applications which are made by schools in a State is less than the amount of the allotment of such State available for such purpose, the Commissioner may reallot the remaining amount from time to time, on such date or dates as the Commissioner may fix, to other States in proportion to the original allotments to such States under section 2 for such year. The Federal capital contribution to a school shall be paid to it from time to time in such installments as the Commissioner determines will not result in unnecessary accumulations in the student loan fund established under its agreement under this Act.

(b) In no case may the total of such Federal capital contributions to any trade school for any fiscal year exceed $25,000.

CONDITIONS OF AGREEMENTS

SEC. 4. An agreement with any trade school for Federal capital contributions by the Commissioner under this Act shall—

(1) provide for establishment of a student loan fund by such school;

(2) provide for deposit in such fund of (A) the Federal capital contributions, (B) an amount, equal to not less than one-ninth of such Federal contributions, contributed by such school, (C) collections of principal and interest on student loans made from such fund, and (D) any other earnings of the fund;

(3) provide that such student loan fund shall be used only for loans to students in accordance with such agreement, for capital distributions as provided in this Act, and for costs of litigation arising in connection with the collection of any loan from the fund or interest on such loan; and

(4) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this Act and as are agreed to by the Commissioner and the school.

TERMS OF LOANS

SEC. 5. (a) The total of the loans for any fiscal year to any student made by trade schools from loan funds established pursuant to agreements under this Act may not exceed the tuition and fees charged the student.

(b) Loans from any such loan fund to any student by any trade school shall be made on such terms and conditions as the school may determine; subject, however, to such conditions, limitations, and requirements as the Commissioner may prescribe (by regulation or in the agreement with the school) with a view to preventing impairment of the capital of the student loan fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of training; and except that—

(1) such a loan shall be made only to a student who (A) is in need of the amount of the loan to pursue a course of training at such school, and (B) is capable, in the opinion of the school, of maintaining good standing in such course of training, and (C) has been accepted for enrollment as a full-time student at such school or, in the case of a student already attending such school, is in good standing and in full-time attendance there;

(2) such a loan shall be evidenced by a note or other written agreement which provides for repayment of the principal amount, together with interest thereon, in equal annual installments, or, if the borrower so requests, in graduated periodic installments (determined in accordance with such schedules as may be approved by the Commissioner), over a period beginning one year after the date on which the borrower ceases to pursue a full-time course of training at a trade school and ending eleven years after such date, except that (A) interest shall not accrue on any such loan, and periodic installments need not be paid, during any period (i) during which the borrower is pursuing a full-time course of training at a trade school, or (ii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States, (B) any such period shall not be included in determining the ten-year period during which the repayment must be completed, (C) such ten-year period may also be extended for good cause determined in accordance with regulations of the Commissioner, and (D) the borrower may at his option accelerate repayment of the whole or any part of such loan;

(3) such a loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum except that no interest shall accrue before the date on which repayment of the loan is to begin;

(4) such a loan shall be made without security and without endorsement, except that, if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required;

(5) the liability to repay any such loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Commissioner;

(6) such a loan by a trade school for any year shall be made in such installments as may be provided in regulations of the Commissioner or the agreement with the school under this Act and, upon notice to the Commissioner by the school that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate; and

(7) no note or other evidence of such a loan may be transferred or assigned by the trade school making the loan except, upon the transfer of the borrower to another trade school participating in the program under this title (or, if not participating, is eligible to do so and is approved by the Commissioner for such purpose), to such school.

(c) An agreement under this Act for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such school in need thereof.

DISTRIBUTIONS OF ASSETS FROM STUDENT LOAN FUNDS

SEC. 6. (a) After June 30, 1968, and not later than September 30, 1968, there shall be a capital distribution of the balance of the student loan fund established under this Act by each trade school as follows:

(1) The Commissioner shall first be paid an amount which bears the same ratio to the balance in such fund at the close of June 30, 1968, as the total amount of the Federal capital contributions to such fund by the Commissioner under this Act bears to the sum of such Federal capital contributions and the school's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the school.

(b) After September 30, 1968, each school with which the Commissioner has made an agreement under this Act shall pay to the Commissioner, not less often than quarterly, the same proportionate share of amounts received by the school after June 30, 1968, in payment of principal or interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the student loan fund or

such payments of principal or interest) as was determined by the Commissioner under subsection (a).

(c) Upon a finding by the school or the Commissioner prior to July 1, 1968, that the liquid assets of a student loan fund established pursuant to an agreement under this Act exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such school or to the Commissioner, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Commissioner or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(1) The Commissioner shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Commissioner to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the school.

(2) The remainder of the capital distribution shall be paid to the school.

LOANS TO INSTITUTIONS

SEC. 7. (a) Upon application by any trade school with which he has made an agreement under this Act, the Commissioner may make a loan to such school for the purpose of helping to finance the school's capital contributions to a student loan fund established pursuant to such agreement. Any such loan may be made only if such school shows it is unable to secure such funds from non-Federal sources upon terms and conditions which the Commissioner determines to be reasonable and consistent with the purposes of this Act. Loans made to schools under this section shall bear interest at a rate which the Commissioner determines to be adequate to cover (1) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Commissioner under this section, (2) the cost of administering this section, and (3) probable losses.

(b) There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not to exceed a total of $5,000,000.

(c) Loans made by the Commissioner under this section shall mature within such period as may be determined by the Commissioner to be appropriate in each case, but not exceeding fifteen years.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) The Commissioner, in addition to the other powers conferred upon him by this Act, shall have power to agree to modifications of agreements or loans made under this Act and to compromise, waive, or release any right, title, claim, or demand, however arising or acquired under this Act.

(b) Financial transactions of the Commissioner pursuant to this Act, and vouchers approved by him in connection with such financial transactions, shall be final and conclusive upon all officers of the Government; except that all such transactions shall be subject to audit by the General Accounting Office at such times and in such manner as the Comptroller General may by regulation prescribe.

DEFINITIONS

SEC. 9. For the purposes of this Act—

(a) The term "State" means a State, the District of Columbia, Puerto Rico, the Canal Zone, American Samoa, Guam, or the Virgin Islands.

(b) The term "trade school" means a school in a State providing training and schooling in vocational subjects which (1) admits as regular students only persons who completed or discontinued their regular program of secondary education, (2) is licensed by such State or by a nationally recognized accrediting agency to provide training and schooling in vocational subjects, (3) does not provide courses which are acceptable for credit toward a bachelor's degree, (4) is not operated under public supervision or control, and (5) has been in operation for not less than two calendar years.

(c) The term "Commissioner" means the Commissioner of Education.

MAINTENANCE OF FLOOD AND ARROYO SEDIMENT CONTROL DAMS, RIO GRANDE CANALIZATION PROJECT

Mr. ANDERSON. Mr. President, on behalf of myself, and my colleague, the junior Senator from New Mexico [Mr. MECHEM], I introduce, for appropriate reference, a bill authorizing maintenance of flood and arroyo sediment control dams and related works to facilitate Rio Grand canalization project and authorized appropriations for that purpose.

The Rio Grande Canalization Act authorized the Commission to construct, operate, and maintain the canalization of the Rio Grande, which work was constructed in accordance with the engineering plan accompanying the act. The present authority, therefore, limits the Commission activities to the now existing project and although the construction of flood control work on arroyos entering the project will benefit and lessen the maintenance work required on the project the Commission authority is not considered sufficient to perform maintenance or contribute to the cost of maintenance for arroyo control projects.

The legislation we are introducing is essential in order to permit the Commission to participate in the maintenance work to the extent of benefits to be derived therefrom as mutually agreed by the two parties.

I ask unanimous consent that the bill, together with a statement expressing the need for this proposal, and a brief statement explaining the bill, be printed in the RECORD.

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

The bill (S. 2370) authorizing maintenance of flood and arroyo sediment control dams and related works to facilitate Rio Grande canalization project and authorized appropriations for that purpose, introduced by Mr. ANDERSON (for himself and Mr. MECHEM), was received, read twice by its title, referred to the Committee on Agriculture and Forestry, 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, That for the purposes of facilitating and implementing operation and maintenance of the international Rio Grande canalization project, the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to enter into agreements with the appropriate official or officials of local organizations, as defined in the Watershed Protection and Flood Prevention Act of August 4, 1954 (70 Stat. 1088), as amended (16 U.S.C.A. 1001, et seq.), for the maintenance by said local organizations either directly or indirectly through mutually satisfactory maintenance agreements with others, including the United States, of all those flood and arroyo sediment control dams, together with all related works, heretofore or hereafter installed or constructed in the Rio Grande watershed between Caballo Dam and El Paso, Texas, in accordance with said Act, and which are necessary, in the opinion of said Commissioner, to facilitate and implement the operation and maintenance of said project.

Such maintenance agreements between the local organization and the United States shall provide the extent of contribution by the United States as may be mutually agreed by the two parties, based on the degree of benefits to be derived from said dams and related works, and the contribution by the United States may be either in the form of funds or performance of the actual operation and maintenance.

Arrangements made between the United States shall be satisfactory to the Secretary of Agriculture for defraying cost of maintaining such work of improvement in accordance with regulations prescribed by said Secretary.

There are hereby authorized to be appropriated such sums as may be required for contributions to maintenance authorized by this Act.

The statements presented by Mr. ANDERSON are as follows:

STATEMENT OF NEED FOR LEGISLATION

The Soil Conservation Service and the U.S. section of the International Boundary and Water Commission have by memorandum of agreement dated October 12, 1962 (Contract No. IBM–6833), undertaken the funding and accomplishment of surveys and investigations necessary to determine the economic feasibility of watershed control dams and related works on specific arroyos entering the canalization project between Percha Dam and Leasburg Dam in Rincon Valley, N. Mex.

Such works as may be constructed under the Watershed Protection and Flood Prevention Act of August 4, 1954, as a result of these surveys and investigations will be of significant benefit to the Commission in the maintenance of the canalization project. The Elephant Butte Irrigation District and the Caballo Soil and Water Conservation District have sponsored these projects under the Watershed Protection and Flood Prevention Act subject to the Commission maintaining or contributing to the maintenance of the works constructed, depending on the degree of benefits derived therefrom as mutually agreed by the two parties.

The Rio Grande Canalization Act authorized the Commission to construct, operate, and maintain the canalization of the Rio Grande, which work was constructed in accordance with the engineering plan accompanying the act. The present authority, therefore, limits the Commission activities to the now existing project and although the construction of flood control work on arroyos entering the project will benefit and lessen the maintenance work required on the project the Commission authority is not considered sufficient to perform maintenance or contribute to the cost of maintenance for arroyo control projects.

Specific legislation is, therefore, sought to permit this Commission to maintain, or contribute to the maintenance by sponsoring agencies, to the extent of benefits to be derived therefrom as mutually agreed by the two parties, of flood control and related

works constructed by the Soil Conservation Service under the act of August 4, 1954 (70 Stat. 1088).

STATEMENT REGARDING PROPOSED BILL SUBMITTED BY ELEPHANT BUTTE IRRIGATION DISTRICT, LAS CRUCES, N. MEX.

The basic purpose of the proposed bill is to authorize the International Boundary and Water Commission to maintain, to the extent of its interest therein as determined by benefits, certain watershed control projects that have been sponsored by this district and the Caballo Soil Conservation District. These projects will be planned for future construction, over a period of years, in accordance with procedure established by the Watershed Protection and Flood Prevention Act (Public Law 566, 83d Cong., as amended).

The primary purpose of the watershed projects now under consideration will be to prevent the inflow of sediment into the river channel within the Rio Grande canalization project located in this district in Dona Ana and Sierra Counties in south central New Mexico. The Rio Grande canalization project has been maintained with Federal funds by the International Boundary and Water Commission, an agency of the State Department, since its construction by that agency about 25 years ago.

The Rio Grande canalization project was constructed for the purpose of controlling major floods entering the river immediately below Elephant Butte dam and to convey reservoir discharges and uncontrolled local flood waters, with a minimum of water loss and flood damage, for the irrigation and protection of lands within the Rio Grande project (New Mexico-Texas), and to deliver water to Mexico under the provisions of the Treaty of 1906. The canalization project, during the past quarter of a century, has made a substantial contribution to the economy of the highly developed and heavily populated area in New Mexico, Texas, and in Mexico, extending from Elephant Butte Dam to a point 65 miles southeast of El Paso, Tex., by conserving the limited water supply available to the area from the Rio Grande, and by preventing major floods which, prior to the construction of the project, inflicted heavy damage in the area.

Proper operation and maintenance of the Rio Grande canalization project is essential to the economy of the entire area served by the Rio Grande in both the United States and Mexico below Elephant Butte Dam. One of the major maintenance problems in the Rio Grande canalization project has been created by inflow, into the river channel, of large volumes of sediment transported by several arroyos, or intermittently flowing streams, that enter the river at various points. This sediment forms obstructions in the river channel that not only hinder the flow of water in the channel, but also raise the elevation of the river water surface, and of the adjoining water table, thereby increasing water losses by seepage and, at the same time, damaging adjacent lands. At intervals, the accumulation of sediment in the river channel reaches the point where an attempt must be made to remove it; otherwise, the efficiency of the canalization project will diminish to the point where it will not fulfill the purposes for which it was constructed.

In properly maintaining the Rio Grande canalization project, the International Boundary and Water Commission is faced with the choice of either removing the sediment from the river channel, or of preventing it from reaching the channel by the use of detention dams and reservoirs located on tributary arroyos. The latter method is considered preferable because the removal of sediment from the channel is a costly procedure that yields only temporary results. Experience indicates that it is better to prevent sediment from entering the river channel than to carry on a never-ending attempt to remove it from the channel after it has been brought in by tributary arroyo flows.

Section 2 of the bill provides for a division of project maintenance costs between the local sponsors and the United States according to benefits received from the projects by the respective parties.

ATTENDANCE AND TESTIMONY OF WITNESSES BEFORE COMMISSION ESTABLISHED TO REPORT ON ASSASSINATION OF LATE PRESIDENT KENNEDY

Mr. RUSSELL. Mr. President, on behalf of myself and the Senator from Kentucky [Mr. COOPER], I introduce, for appropriate reference, a joint resolution authorizing the Commission established to report upon the assassination of the late President John F. Kennedy to compel the attendance and testimony of witnesses and the production of evidence. I ask unanimous consent that the joint resolution be printed and lie on the table.

The ACTING PRESIDENT pro tempore. The joint resolution will be received and printed; and, without objection, the joint resolution will lie on the table, as requested by the Senator from Georgia.

The joint resolution (S.J. Res. 137), authorizing the Commission established to report upon the assassination of President John F. Kennedy, to compel the attendance and testimony of witnesses and the production of evidence, introduced by Mr. RUSSELL, was received, read twice by its title, and ordered to lie on the table.

THE PUBLIC WORKS APPROPRIATIONS BILL, 1964—AMENDMENTS (AMENDMENT NOS. 343 AND 344)

Mr. PROXMIRE submitted two amendments, intended to be proposed by him, to the bill (H.R. 9140) making appropriations for certain civil functions administered by the Department of Defense, certain agencies of the Department of the Interior, the Atomic Energy Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and certain river basin commissions for the fiscal year ending June 30, 1964, and for other purposes, which were ordered to lie on the table and to be printed.

NOTICE OF HEARING ON S. 14 AND H.R. 10

Mr. YARBOROUGH. Mr. President, as chairman of the Civil Service Subcommittee of the Senate Post Office and Civil Service Committee, I wish to announce that a public hearing on S. 14 and H.R. 10, to extend the apportionment requirement in the Civil Service Act of January 16, 1883, to temporary summer employment, and for other purposes, will be held on Wednesday, December 11, 1963, in room 6202, New Senate Office Building at 10 a.m.

Those wishing to testify may arrange to do so by calling Capital 4–3121, extension 5451.

TRIBUTES TO THE LATE SENATOR HERBERT H. LEHMAN

Mr. MORSE. Mr. President, what a great servant the American people lost in the death yesterday of Herbert H. Lehman. And those of us who served with him in this Chamber or in any of the many State and Federal duties he undertook know that we have lost a leading example and inspiration of what a public servant should be.

Like any man or woman, Herbert Lehman learned from his work. But unlike many in public life, he brought to it far more than he took from it. His humanitarianism, his unwavering integrity of mind and principle, his understanding of the workings of the American economy, and his appreciation of the opportunity America offers to people of all racial and religious backgrounds were all well developed in him before he ever sought public office.

As a result, no office he held was ever sullied by a breath of scandal, corruption, expediency, or other low motives. On the contrary, for over 30 years of public office, at both the State and the Federal levels, his service was always marked by the highest standards of American life. No obstacle could daunt him; no failure could discourage him from pursuing the objectives of equal justice and equal opportunity for all the American people.

It was no accident that when death struck him down, Herbert Lehman was preparing to leave his New York home to come to Washington to receive from the President of the United States the Medal of Freedom. Its citation read:

> Citizen and statesman, he has used wisdom and compassion as the tools of the government and has made politics the highest form of public service.

It is sad, but appropriate, that the citation should also be his epitaph.

I shall always remember that the qualities that characterized Herbert Lehman's public service also characterized his personal relationships. A kindly and humane person, the only kind of indignation that ever overtook him was righteous indignation. We who knew him personally and those throughout the country and the world who knew him only by his good works have all lost a dear friend.

Mr. President, I close by saying that Herbert Lehman was one of my great teachers and one of my sources of inspiration as we served shoulder to shoulder in the Senate in common causes.

I ask unanimous consent to have printed in the RECORD an editorial entitled "Herbert H. Lehman," which was published today in the New York Times, and also a telegram which I have sent to Mrs. Lehman.

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

HERBERT H. LEHMAN

A second riband of mourning now hangs on the American flag. For the death of Herbert H. Lehman closes the active career of an indomitable national and international servant. As Governor of New York, U.S. Senator, and Director General of the United Nations Relief and Rehabilitation Administration, his

life and activities soared in example and significance far beyond the borders of this, his native city.

He lived a private and public life that moved in a straight and true line. In the richest sense of the words, he was a liberal and humanitarian. Against the enemies of the Republic, he saw service in the U.S. Army in the First World War and resigned from the governorship in the Second World War to direct foreign relief operations for the State Department. Wherever human distress existed, all over the globe, there could be found Herbert Lehman, saving lives as a representative of the best instincts of the United States and the United Nations.

Reform, sound administration, and courage marked his political career. He entered politics at the side of Alfred E. Smith and Franklin Delano Roosevelt, serving one as campaign chairman and the other as Lieutenant Governor. As Governor for 10 years from 1932 until America's entry into the war, he brought the State distinction and honor during difficult years for the people and Nation. All this time he was a stalwart New Deal Democrat, closely affiliated with the programs of President Roosevelt.

The refinements of the Fair Deal nationally saw him in the service of New York as U.S. Senator, often as a quiet but not small voice speaking for legislation favoring all Americans. In Washington, he became the conscience of the Senate. When others quavered before the onslaught of McCarthyism, it was Herbert Lehman who offered the resolution for the removal of the Wisconsin demagog from his committee chairmanships. On matters close to his heart—immigration to continue the American dream and civil rights to uphold the American Constitution—he battled relentlessly against the troops of evil.

Together with Mrs. Eleanor Roosevelt, Herbert Lehman continued to stand for the reform movement in State and National Democratic politics. After he had passed his 80th birthday, he could be found in rain and cold carrying on his crusade for political decency in every section of the city. At the end of his life he was still standing in the forefront of many charitable welfare, and humanitarian causes. This great man of private heart and public courage was not just a symbol, but an activist of noble aims and accomplishments to his last moments. These live on.

WASHINGTON, D.C.,
December 5, 1963.

Mrs. HERBERT LEHMAN,
New York, N.Y.

DEAR EDITH: Midge and I send you our deep and heartfelt sympathy. You know how much we loved Herbert and what an inspiration he has always been to me. Our prayers are with you and we are asking God to strengthen and bless you.

Affectionate regards from us both,

WAYNE MORSE.

Mr. KEATING. Mr. President, with the death of Herbert H. Lehman, the Nation has lost a conscientious, dedicated and effective leader in the fight for equal rights and human dignity for all our people. The extent of Lehman's greatness, the scope of his work, the impact of his example, are well revealed in the editorials that have appeared in our Nation's leading newspapers on the sad occasion of his death.

He was a leader not only in New York State which honored him as Senator and Governor, but also throughout the country where all those who shared his deep and pervading concern for good government and individual rights mourn the loss of a vigorous and high-principled leader.

Mr. President, I ask unanimous consent to include in the RECORD the editorials from the New York Times, the New York Herald Tribune, and the Washington Post evaluating the distinguished career of this great public servant.

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

[From the New York (N.Y.) Times, Dec. 6, 1963]

HERBERT H. LEHMAN

A second riband of mourning now hangs on the American flag. For the death of Herbert H. Lehman closes the active career of an indomitable national and international servant. As Governor of New York, U.S. Senator and Director General of the United Nations Relief and Rehabilitation Administration, his life and activities soared in example and significance far beyond the borders of this, his native city.

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Together with Mrs. Eleanor Roosevelt, Herbert Lehman continued to stand for the reform movement in State and national Democratic politics. After he had passed his 80th birthday, he could be found in rain and cold carrying on his crusade for political decency in every section of the city. At the end of his life he was still standing in the forefront of many charitable, welfare and humanitarian causes. This great man of private heart and public courage was not just a symbol, but an activist of noble aims and accomplishments to his last moments. These live on.

[From the New York (N.Y.) Herald Tribune, Dec. 6, 1963]

HE SERVED THE PEOPLE WELL

The death of Herbert H. Lehman leaves all of us poorer. For in our time there have been few public servants so universally respected, admired, and beloved.

The life of the former Governor and Senator was a long one. It is hard to remember now that he was first elected to office as long ago as 1928, as Franklin D. Roosevelt's Lieutenant Governor. But he was then already 50, a man of great wealth turning from private pursuits to new and broader arenas.

In this career, Mr. Lehman was four times elected Governor of New York, and later twice chosen to the U.S. Senate. During the war he served as the first head of the United Nations Relief and Rehabilitation Administration. And in recent years, when he was already in his eighties, Mr. Lehman led the reform storm in the local Democratic Party.

Thus he covered more than a third of a century in city, State, National, and international performance, all of it done with courage and competence.

The strength of Herbert H. Lehman was in character. Few public figures were so consistently on the right side of the great issues. He was a social idealist, yet also an industrious man of action. He stirred few antagonisms, but in his undramatic way he got things done. This is perhaps why one hardly thinks of Mr. Lehman as a politician, although he was this State's prime vote-getter.

There was about him the assurance of nonpartisanship, of quiet but determined conscience, that made for popularity. He knew what was right, and did it. That he did it so unspectacularly is probably the true mark of Lehman quality, although in later years he became increasingly a bold crusader.

But the important thing is that at all times Herbert H. Lehman served the public interest well. By spirit, integrity, and efficiency, he inspired trust and devotion. And he gave of himself in many ways to the very end of his admirable life. This is an example to cherish.

[From the Washington (D.C.) Post, Dec. 6, 1963]

HERBERT H. LEHMAN

There was so much simple goodness, generosity and grace in Herbert Lehman that one rarely thought of him as suited to the rough realities of American political life. He neither looked nor talked like a politician. Nevertheless the roster of public offices which he won, and filled with nobility and effectiveness, testified to a powerful political appeal rooted in the extraordinary qualities of conviction and courage which he brought into public life.

Entering politics at 50, after a notable career in business and banking, Herbert Lehman teamed with Franklin D. Roosevelt to become Lieutenant Governor of New York, then Governor for four terms when F.D.R. went to the White House, and finally U.S. Senator. In between, he served as director of the wartime Office of Foreign Relief and Rehabilitation and as Director General of the United Nations Relief and Rehabilitation Administration. Help for those whom the war had made helpless could not have been entrusted to more devoted hands.

A product of Wall Street and a multimillionaire, Herbert Lehman was an unreserved champion of underdogs and of progressive political ideas through the whole of his public career. If he never became a power in the Senate or a member of its inner circle, he exercised influence nonetheless because, for the country at large, he symbolized sincerity. The dauntlessness with which this quiet, unpretentious little man challenged Joe McCarthy, the Senate's bully, illuminated the murkiness of a shabby decade in American politics. The country owes much to Herbert Lehman for its recovery from McCarthyism.

Senator Lehman's efforts to infuse charity and reason into American immigration policy may well constitute his most significant contribution. He was an implacable foe of

the national origins quota system. That system has not yet been extirpated from the immigration statutes; but a proposal for abandonment of it was sent to Congress not long ago by John F. Kennedy. Its enactment would be Herbert Lehman's best monument.

Had he lived and held his health, Herbert Lehman would have been among those to be given the Presidential Medal of Freedom at the White House today. No one deserved it more. No one could have defended freedom more fervently.

Mr. MONRONEY. Mr. President, for many years it was my privilege to sit next to a truly great Senator, Senator Herbert Lehman. He occupied this desk which I now have and I had the seat to his left.

Watching him, seeing him, hearing him over the years made me appreciate this great man's constant effort through every waking hour to better the condition of all mankind. Senator Lehman was the champion of the underprivileged long before most of the later advocates of liberal programs had thought out any of the needs or the methods of extending legislation to better the condition of our citizens.

One of the earliest advocates of civil rights legislation, Senator Lehman pioneered in sponsoring legislation in this field. He was an active crusader for the improvement of wages and hours of our unorganized working men and women—and for protecting the rights of labor.

In the foreign field as well as domestic, Senator Lehman's great service stands as a monument to his compassion for his fellow man and his tireless effort to assist them.

His protests against injustice and oppression were always ready as he would seek the Senate floor to call this Nation's attention to its moral duty.

It is significant that his death at 85 occurred as he prepared to fly to Washington to receive the highest civilian peacetime honor that this Nation could award, the Presidential Freedom Medal Award.

Mr. GRUENING. Mr. President, within a fortnight the United States—indeed the world—has lost two great leaders.

Two weeks ago a great President of the United States—John Fitzgerald Kennedy—was snatched from our midst by the cruel and cowardly bullet fired by a hidden assassin.

Yesterday's unexpected death of Herbert H. Lehman—our former colleague—compounded the loss in leadership suffered by the United States in recent days.

The death of Herbert Lehman—financier, diplomat, philanthropist, and political leader—leaves on the national scene a void which cannot adequately be filled. Kindly, wise and farsighted, Herbert Lehman, as Governor of the State of New York, as a U.S. Senator from that State, and as a private citizen, could be found at all times throughout his very active life in the forefront of every important fight for human rights.

Many men and women alive today in the United States owe an unfulfillable debt of gratitude to Herbert H. Lehman for his leadership role during the depression of the thirties not only as Governor of the State of New York but also as the "good right arm" of President Franklin D. Roosevelt.

Many men and women alive today throughout the world also owe an unfulfillable debt of gratitude to Herbert H. Lehman for his wise, efficient and humanitarian administration of the United Nations Relief and Rehabilitation Agency.

But we here in the U.S. Senate owe Herbert H. Lehman a special debt of gratitude which we can recognize but never repay. For during the course of his service in this body he was in all truth the active and able "conscience of the Senate." His was the voice that spoke out strongly and wisely against the witch hunters of those times. His was the voice that was raised on behalf of the poor, the sick, and the downtrodden both here and abroad.

His was the voice that was raised for middle income housing, for liberalization of our antiquated immigration laws, for protection of the civil rights of men and women without distinction on the basis of race, creed, or color, for programs to combat juvenile delinquency, and on behalf of countless other good and important causes in defense of human rights and dignities.

Herbert Lehman will be sorely missed in this Nation and in this world. And, in encomium, all that can be added is that while this world will miss Herbert Lehman and his good deeds, in any event this world is a better world for his having graced it with his presence for these past 85 years.

It is truly ironic, Mr. President, that Herbert Lehman should have departed this earth just as he was preparing to come to Washington to receive at the hands of the new President and his former colleague, Lyndon B. Johnson, the highest civilian award granted by this Government. I hope that suitable ceremonies will be planned in the days ahead to make that award posthumously to his gracious and able widow. But the point I make, Mr. President, is that it is most gratifying to know that this Nation during the lifetime of Herbert Lehman, recognized the many deeds of greatness that he had performed. Those deeds will live on in the memory of men and women throughout the world.

I ask unanimous consent that editorials on Herbert Lehman appearing in the Washington Post and in the New York Times be inserted in the RECORD at the conclusion of my remarks.

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

[From the New York (N.Y.) Times, Dec. 6, 1963]

HERBERT H. LEHMAN

A second riband of mourning now hangs on the American flag. For the death of Herbert H. Lehman closes the active career of an indomitable national and international servant. As Governor of New York, U.S. Senator and Director General of the United Nations Relief and Rehabilitation Administration, his life and activities soared in example and significance far beyond the boarders of this, his native city.

He lived a private and public life that moved in a straight and true line. In the richest sense of the words, he was a liberal and humanitarian. Against the enemies of the Republic, he saw service in the U.S. Army in the First World War and resigned from the governorship in the Second World War to direct foreign relief operations for the State Department. Wherever human distress existed, all over the globe, there could be found Herbert Lehman, saving lives as a representative of the best instincts of the United States and the United Nations.

Reform, sound administration, and courage marked his political career. He entered politics at the side of Alfred E. Smith and Franklin Delano Roosevelt, serving one as campaign chairman and the other as Lieutenant Governor. As Governor for 10 years from 1932 until America's entry into the war, he brought the State distinction and honor during the difficult years for the people and Nation. All this time he was a stalwart New Deal Democrat, closely affiliated with the programs of President Roosevelt.

The refinements of the Fair Deal nationally saw him in the service of New York as U.S. Senator, often as a quiet but not small voice speaking for legislation favoring all Americans. In Washington, he became the conscience of the Senate. When others quavered before the onslaught of McCarthyism, it was Herbert Lehman who offered the resolution for the removal of the Wisconsin demagog from his committee chairmanships. On matters close to his heart—immigration to continue the American dream and civil rights to uphold the American Constitution—he battled relentlessly against the troops of evil.

Together with Mrs. Eleanor Roosevelt, Herbert Lehman continued to stand for the reform movement in State and National Democratic politics. After he had passed his 80th birthday, he could be found in rain and cold carrying on his crusade for political decency in every section of the city. At the end of his life he was still standing in the forefront of many charitable, welfare, and humanitarian causes. This great man of private heart and public courage was not just a symbol, but an activist of noble aims and accomplishments to his last moments. These live on.

[From the Washington (D.C.) Post, Dec. 6, 1963]

HERBERT H. LEHMAN

There was so much simple goodness, generosity, and grace in Herbert Lehman that one rarely thought of him as suited to the rough realities of American political life. He neither looked nor talked like a politician. Nevertheless the roster of public offices which he won, and filled with nobility and effectiveness, testified to a powerful political appeal rooted in the extraordinary qualities of conviction and courage which he brought into public life.

Entering politics at 50, after a notable career in business and banking, Herbert Lehman teamed with Franklin D. Roosevelt to become Lieutenant Governor of New York, then Governor for four terms when F.D.R. went to the White House, and finally U.S. Senator. In between, he served as director of the wartime Office of Foreign Relief and Rehabilitation and as Director General of the United Nations Relief and Rehabilitation Administration. Help for those whom the war had made helpless could not have been entrusted to more devoted hands.

A product of Wall Street and a multimillionaire, Herbert Lehman was an unreserved champion of underdogs and of progressive political ideas through the whole of his public career. If he never became a power in the Senate or a member of its inner circle, he exercised influence nonetheless because, for the country at large, he symbolized sincerity. The dauntlessness with which this quiet, unpretentious little man challenged Joe McCarthy, the Senate's bully, illuminated

the murkiness of a shabby decade in American politics. The country owes much to Herbert Lehman for its recovery from McCarthyism.

Senator Lehman's efforts to infuse charity and reason into American immigration policy may well constitute his most significant contribution. He was an implacable foe of the national origins quota system. That system has not yet been extirpated from the immigration statutes; but a proposal for abandonment of it was sent to Congress not long ago by John F. Kennedy. Its enactment would be Herbert Lehman's best monument.

Had he lived and held his health, Herbert Lehman would have been among those to be given the Presidential Medal of Freedom at the White House today. No one deserved it more. No one could have defended freedom more fervently.

Mr. RIBICOFF. Mr. President, the long and distinguished career of one of America's foremost statesmen came to an end yesterday with the passing of Herbert Lehman. His death closes a book on a lifetime of public service devoted to the betterment of all mankind.

After a brilliant career in private business which might have satisfied a lesser man, Herbert Lehman turned his remarkable talents to public causes and politics where he set election records still unmatched in the history of New York State. Here was a man who entered politics at the age of 50 as a candidate for Lieutenant Governor of New York in 1928 and 35 years later was the guiding spiritual leader of a political reform movement usually the domain of younger men. In the years between, he held all the highest elective posts in his State in addition to being the first Director General of the United Nations Relief and Rehabilitation Administration.

Truly his life proves the poet's words to be true:

Grow old along with me the best is yet to be.

It is significant that the day he died Herbert Lehman was to receive the Nation's highest civilian honor—the Presidential Freedom Medal. As President Johnson has pointed out the citation accompanying the award provides the most fitting epitaph for this beloved man:

Citizen and statesman, he has used wisdom and compassion as the tools of government and has made politics the highest form of public service.

The millions he helped mourn him. Those of us who knew him will miss him. But he has left his mark on his times as few men in our Nation's history have done and for that he will be always remembered.

Mrs. Ribicoff joins me in extending our deepest sympathy to the family.

I ask unanimous consent to insert in the RECORD at this point editorials from this morning's New York Times and New York Herald Tribune.

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

[From the New York (N.Y.) Herald Tribune, Dec. 6, 1963]

HE SERVED THE PEOPLE WELL

The death of Herbert H. Lehman leaves all of us poorer. For in our time there have been few public servants so universally respected, admired and beloved.

The life of the former Governor and Senator was a long one. It is hard to remember now that he was first elected to office as long ago as 1928, as Franklin D. Roosevelt's Lieutenant Governor. But he was then already 50, a man of great wealth turning from private pursuits to new and broader arenas.

In this career Mr. Lehman was four times elected Governor of New York, and later twice chosen to the U.S. Senate. During the war he served as the first head of the United Nations Relief and Rehabilitation Administration. And in recent years, when he was already in his 80's, Mr. Lehman led the reform storm in the local Democratic Party.

Thus he covered more than a third of a century in city, State, national, and international performance, all of it done with courage and competence.

The strength of Herbert H. Lehman was in character. Few public figures were so consistently on the right side of the great issues. He was a social idealist, yet also an industrious man of action. He stirred few antagonisms, but in his undramatic way he got things done. This is perhaps why one hardly thinks of Mr. Lehman as a politician, although he was this State's prime vote-getter.

There was about him the assurance of nonpartisanship, of quiet but determined conscience, that made for popularity. He knew what was right, and did it. That he did it so unspectacularly is probably the true mark of Lehman quality, although in later years he became increasingly a bold crusader.

But the important thing is that at all times Herbert H. Lehman served the public interest well. By spirit, integrity and efficiency, he inspired trust and devotion. And he gave of himself in many ways to the very end of his admirable life. This is an example to cherish.

[From the New York (N.Y.) Times, Dec. 6, 1963]

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A second riband of mourning now hangs on the American flag. For the death of Herbert H. Lehman closes the active career of an indomitable national and international servant. As Governor of New York, U.S. Senator, and Director General of the United Nations Relief and Rehabilitation Administration, his life and activities soared in example and significance far beyond the borders of this, his native city.

He lived a private and public life that moved in a straight and true line. In the richest sense of the words, he was a liberal and humanitarian. Against the enemies of the Republic, he saw service in the U.S. Army in the First World War and resigned from the governorship in the Second World War to direct foreign relief operations for the State Department. Wherever human distress existed, all over the globe, there could be found Herbert Lehman, saving lives as a representative of the best instincts of the United States and the United Nations.

Reform, sound administration, and courage marked his political career. He entered politics at the side of Alfred E. Smith and Franklin Delano Roosevelt, serving one as campaign chairman and the other as Lieutenant Governor. As Governor for 10 years from 1932 until America's entry into the war, he brought the State distinction and honor during difficult years for the people and Nation. All this time he was a stalwart New Deal Democrat, closely affiliated with the programs of President Roosevelt.

The refinements of the Fair Deal nationally saw him in the service of New York as U.S. Senator, often as a quiet but not small voice speaking for legislation favoring all Americans. In Washington, he became the conscience of the Senate. When others quavered before the onslaught of McCarthyism, it was Herbert Lehman who offered the resolution for the removal of the Wisconsin demagog from his committee chairmanships. On matters close to his heart—immigration to continue the American dream and civil rights to uphold the American Constitution—he battled relentlessly against the troops of evil.

Together with Mrs. Eleanor Roosevelt, Herbert Lehman continued to stand for the reform movement in State and National Democratic politics. After he had passed his 80th birthday, he could be found in rain and cold carrying on his crusade for political decency in every section of the city. At the end of his life he was still standing in the forefront of many charitable, welfare, and humanitarian causes. This great man of private heart and public courage was not just a symbol, but an activist of noble aims and accomplishments to his last moments. These live on.

Mr. CASE. Mr. President, I join my colleagues in paying tribute to our late colleague, Herbert H. Lehman. His courage, wisdom, compassion, and deep understanding made him an outstanding public servant. The Senate is richer for his service here, and so is the country. His service in the Senate, as the Governor of New York, and also in many other capacities of public service, quasi-public service, and private service, made the entire period of the Nation during which he lived the richer and the better.

Mr. SALTONSTALL. Mr. President, I join my colleagues in paying tribute to the late Herbert H. Lehman.

I first knew him as a fellow Governor; the first Governors' conference I attended was held in Albany, N.Y., when he was Governor of New York. We met at that time, and I came to have great respect for him and for the way in which he administered the office of Governor of that great State. We worked together as Governors for several years, and thereafter both of us came to the U.S. Senate where our friendship continued.

Herbert Lehman was always frank and direct in stating what he felt was the right thing to do. He expressed himself well, and he lived up to his ideals. He wanted a better life for all the people of the United States; and he worked tirelessly, energetically and sincerely in striving to attain that objective. He also interested himself in legislation relating to immigration and worked hard to reunite families separated by our immigration laws.

I join my colleagues in extending sympathy to Mrs. Lehman, with whom my wife and I had a very happy friendship, and to the other members of his family.

Mr. JOHNSTON. Mr. President, I, too, had the pleasure of serving with Herbert Lehman at Governors' conferences prior to our coming to the Senate. Immediately thereafter, when we came to the Senate, we served on the same Senate committee.

I found Herbert Lehman at all times—both as Governor and as U.S. Senator—working tirelessly for the things he thought right and best for the people of the United States. He was always fighting for the man who needed help and assistance, for the man who was an underdog. He constantly tried to make the world a better place in which to live.

We greatly admire and appreciate such a man; and today, when we realize that he is no longer with us, we can truly say that in spirit he will live forever in the hearts and minds of those who came into contact with him, and the imprint he left upon others will be an asset and a force for good in our Nation for as long as it stands.

I join in extending our sympathy to his good wife. At all times she was at his side, working with him and helping him in all the things he undertook to do for the good of those about him.

So, Mr. President, today we pay our tribute to Herbert H. Lehman for the wonderful work he did during his long and honorable life.

Mr. COTTON. Mr. President, one of the sweetest words in the English language is the word "compassion."

As a freshman Member of this body I came to know Senator Lehman; and he was most kind to me. I believe that his compassion, the heartfelt concern that he had for all people, was the ruling passion of his life. All of us share that virtue, but many of us, by reason of necessity, must temper it with certain elements of prudence and frugality in government.

Senator Lehman had full knowledge and appreciation of the duties of the Government but, nevertheless, with a singleness of purpose he was ruled by compassion.

That will be the memory he will leave in our hearts and minds. It was the keynote of his life as I remember it.

I join in extending sympathy to his loved ones, and to the great numbers of people who will miss him so much.

Mr. YARBOROUGH. Mr. President, I join my colleagues in tribute to the late Senator Lehman of New York. He raised the standards of public service in New York and in the Nation. He served in a tradition of idealism and of public service, supporting good issues and just causes rather than mere personalities.

His friends and admirers, of whom I am one, were scattered all over this Nation. Though my period of service in the Senate did not touch his, I have known Senator Lehman during my years of service here, and have had talks with him, not infrequently. I feel a loss in his passing away.

Being from the most populous State in the Nation, he was plagued with the problem of a too small staff for the work here, as are all Senators from the States with larger populations. He cut the Gordian knot by employing and paying from his personal means enough office assistants to promptly and properly care for all constituents' requests and mail. It is said that his private payroll to office employees to handle Government mail in his office exceeded the Government payroll to answer Government mail, in the same office.

Looking at the damage done the Gulf and Atlantic coasts by hurricane each year, in 1956 he coauthored the Lehman-Kennedy bill, with the late President John F. Kennedy, to provide insurance protection against loss from damages caused by rising waters. His law is on the books, as yet unimplemented, but it is there for the user and in time it must certainly be used.

Senator Lehman's achievements in a life of more than fourscore years are too great to be enumerated by me here, and indeed, they have in some measure been recounted by others yesterday and today. His leadership in public health, patronage of the arts and all welfare legislation is well known. But I wanted to mention one or two smaller items, illustrative of the meticulous care with which he considered the slightest request, as well as the damage from the largest natural disasters.

His service here brought dignity, patriotism and probity as hallmarks. His life enriched America.

Mr. PELL. Mr. President, I mourn the death of Herbert H. Lehman yesterday in New York City, a death that suddenly came to him just as he was preparing to come to Washington to receive our Nation's highest peacetime award, the President's Medal of Freedom.

Although I was not a Member of the Senate when Herbert Lehman was our colleague, I have long admired him. He was truly a "man who, as he said, says what he thinks and does what he says." And those who knew him well not only admired him, but loved him. I well recall how my father, a former Congressman from New York and chairman of the Democratic Party in New York, admired and respected Senator Lehman. He was a man with whom both Alfred E. Smith and Franklin D. Roosevelt could join forces and agree upon as being one of the best Governors of New York. He worked and fought for the Democratic Party when many people of his own financial background held themselves aloof from the political hurly burly. He was a leader in the fight toward liberalization of our immigration laws, the defense of civil rights for all men, and the spearheading of philanthropic activities. He was a moving spirit, with seemingly unendless energy in the Democratic Party of New York, from the days of Al Smith to the day of his death.

It is my hope that Senator Lehman's zeal for democratic processes and humanitarian causes will be his eternal legacy to the present and future leaders of government in the great State of New York.

PRESENT STATUS OF VOCATIONAL EDUCATION BILL

Mr. MORSE. Mr. President, if I may have the indulgence of the Senate for not more than 5 minutes, I should like to make a report.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized for 5 minutes.

Mr. MORSE. I wish to make a progress report to the Senate in regard to the present status of the conference on the vocational education bill.

Perhaps I should entitle these remarks as "a report of no progress." The conference met again this morning and recessed until Monday morning at 10 o'clock.

Speaking for myself, although I am sure my view would be shared by the overwhelming majority of my Senate conferees, the odds are apparently against our getting a vocational education bill. If that proves to be the case, as chairman of the Subcommittee on Education, it will be my position that all proposed legislation on education should be postponed for consideration until some time after January including action on the higher education bill.

The Senate Republican and Democratic conferees voted unanimously this morning against the House substitute proposal in regard to the equalization formula.

In 1947, when many of us stood shoulder to shoulder on the issue of education with Senator Robert Taft, of Ohio, the equalization formula was developed at that time. It is a formula which has prevailed in Senate bills relating to education ever since. It is a formula that is based upon the sound proposition of coming to the aid of the poorer States. We have often spoken of it as the 3-to-1 formula, although when the Senator from Ohio, Mr. Taft, first proposed the legislation in this field he was for all Federal money going to the poorer States—none of it to go to the richer States. That was the original position of the Senator from Ohio. However, he became confronted with political realities in both bodies and it became perfectly clear that if we were going to get aid from the Federal Government in the field of education it was going to be necessary to develop a formula that would provide some aid to the rich States as well as to the poor States.

The equalization concept, by and large, has prevailed ever since in Senate legislation.

The House has become adamant on its proposal to change the formula. I have taken the position that there is enough merit in the position of the House, to justify trying to reach a workable compromise on the issue. I have been trying to work out a workable compromise. But the compromise that was offered by the House this morning is completely unacceptable to the Senate, because it is not even based on a 2-to-1 equalization formula. I have said that I would be willing to try to get my Senate conferees—although we are split on the question—to compromise on a 2-to-1 formula. The House substitute which was offered as a 2-to-1 formula is not in fact a true 2-to-1 formula at all since it applies to only half the money distributed. If we are going to have an equalization concept, then we should apply it in this bill.

The conference recessed this morning to reconvene at 10 o'clock on Monday morning, to consider further the formula issue on the basis of suggestions we have left with the House conferees in the hope that they will be accepted on Monday morning. The Senate conferees are meeting at 2 o'clock this afternoon to discuss other differences that we have with the House, and many of those differences are great. We are a great distance apart. Do not forget, the Senate vocational education bill was passed in

the Senate after President Kennedy sent up to the Congress his subsequent message on education dealing with the problem of vocational education on June 18. The Senate bill sought to carry out the recommendations of the President. It also in part B has amendments to the National Defense Education Act which are vital to thousands upon thousands of young people in this country who will become unemployable if we do not keep them in school. The National Defense Education Act amendments of the Senate are essential to keep those young people in school. But the House version of the bill has no provision in it concerning the National Defense Education Act.

The testimony supporting the recommendations of the President of the United States in that June civil rights message in regard to residential vocational schools and in regard to a student work-study program show that we need to try new approaches if we are to begin to come to grips with the problem of school dropouts. We cannot begin to come to grips with the children whose homes are so poor that they have little or no opportunity to go on to school unless we come to grips with the principles of the Senate bill dealing with such programs as residential schools and the student work-study proposals.

As some of my Senate colleagues know and as the Senate majority leader knows, the very last conference I had with President Kennedy was on foreign aid and pending education legislation. He was very appreciative of the action taken by the Senate on the Senate version of the vocational education bill. He made very clear to me that he hoped very much that the Senate bill would be agreed to in conference.

The differences which have developed in our conference involve positions taken by the House in conflict with the views of the late President. That I know.

As chairman of the conference, I wish to say that if an adamancy of position continues in respect to the House side, in our endeavor to try to work out a reasonable compromise in regard to the provisions in the Senate bill which are not included in the House bill, then I believe this whole question should go back to the precincts of America for the next few weeks and let the people speak.

Then in the next session renew further consideration of proposed education legislation at all levels. I shall continue to do what I can on Monday to try to bring out a sound compromise bill. My Senate conferees will try to do the same thing.

I note that the House does not seem to have any problem in agreeing to come now with a conference report on foreign aid which will involve the expenditure of millions of dollars for educational aid abroad, and in some areas where it is a bit questionable whether a single American taxpayer's dollar should be used. I am for reasonable educational aid abroad but not in any such sums as we have been spending and that the conference bill on foreign aid proposes to continue to spend. I urge that we spend for our own boys and girls a reasonable amount for aid to our own American schools first.

The ACTING PRESIDENT pro tempore. The time of the Senator from Oregon has expired.

Mr. MORSE. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

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

Mr. MORSE. Mr. President, we will not keep our economy strong, so that the taxes can be paid to make it possible for us to undertake an AID program in the years ahead in those areas where it is needed, unless we develop the potential brainpower of future taxpayers of this country.

I say most respectfully that if the House can vote millions of dollars for aid to education abroad, the time has come for the House to take a look at the needs for education in the United States. I say most respectfully to my friends in the House, that this is not the place to economize on our budget at the expense of the development of the brainpower of the youth of this country.

I believe we have about reached the time for the American people to speak on this subject, and that is what I shall favor next week unless on Monday a fair, equitable, and reasonable compromise can be arrived at between the two Houses.

DECEMBER 7, 1941: IN MEMORIAM

Mr. INOUYE. Mr. President, 22 years have passed since December 7, 1941.

But our memories and the pages of history keep the events of that day forever with us.

The gallantry of Americans at that time and place, and in the later great struggles, have made it possible for freedom to exist today.

On this 22d anniversary of the attack on Pearl Harbor, each of us must salute the memory of those who died on that fateful Sunday morning. Today, we should also render our thanks to the military and civilian defenders of our country who make it possible for us to continue to live in peace and relative security.

On this day, too, each of us in this Chamber must rededicate ourselves to the principles for which this Nation stands—to renewed devotion to our duty to maintain our Nation strong and free—and to renewed efforts to attain world peace.

Pearl Harbor provided a lesson that we must never forget: Eternal vigilance is still the price of liberty.

Modern weapons of warfare, and the swiftness of their delivery, mean that today devastating attack can be carried out anywhere in the United States within minutes, and that no one, man, woman, or child, is safe from the quick death of the bomb's blast or the lingering death from fallout. In the face of this new fact of life, we cannot shirk our duty to maintain a defense second to none.

Today, military defense and civil defense are one and the same. They are inseparable. Missiles make no distinction between the soldier and the civilian; between the weapons of war and the mother and her child.

We have some of the best defensive and offensive weapons in the *world today* but they are of no avail unless we have the means of protecting our people from the nuclear warheads of intercontinental missiles. We must insure the survival of our most importance resource—our people. Otherwise we shall cease to exist as a Nation.

I saw some of the first U.S. civilian casualties in World War II. I saw them because I was there on that infamous Sunday morning, 22 years ago carrying the dead and dying to first aid stations as a young civil defense volunteer. Perhaps this is why I think in terms of civil defense and national survival on this anniversary day.

Today, with weapons that span oceans in a fraction of an hour, a surprise attack is even more possible than it was more than two decades ago. Although we may not be able to prevent such an attack we must be prepared to survive it, not alone as individuals but as a nation. It is our responsibility as leaders and lawmakers to guarantee to the people of the United States that they will not be left unsheltered and unprotected from an unexpected and unprovoked attack a thousand times more deadly than that which came on that quiet Sunday morning long ago.

It is only by remembering and acting on the lesson of Pearl Harbor that we can hope for peace and security for our families and our friends, today and for the future.

THE PENDING TAX BILL SHOULD BE STUDIED CLOSELY—WILL IT, IN ITS PRESENT FORM, DO WHAT PRESIDENT JOHNSON HOPES FOR IT?

Mr. GRUENING. Mr. President, now that we have reasonable expectation of having a tax bill come before the Senate in the not too distant future, it would be well if we informed ourselves fully, and our constituents, as to just what is in the package.

I have a very interesting letter from one of my constituents, an extremely knowledgeable citizen—Mr. Bernardus J. Smit, of Bethel, Alaska—who writes that the tax bill now being studied by the Senate Finance Committee appears to him "very unfavorable to persons earning less than $10,000 and very favorable to those over $50,000." He adds his view that the high tax rates for upper bracket people are not the effective rates they appear to be; and he states, from his own experience, that when one gets into the higher earnings brackets there are almost unlimited tax-avoidance devices. And he says:

> The big tears shed about confiscatory taxes are in my opinion blatant hypocrisy and should be resisted.

It is my hope that before this bill emerges from the Finance Committee some of these flagrant loopholes will be

plugged. Otherwise, we will have to face the fact that this is merely a bill to make the rich richer and, as I pointed out on the floor of the Senate a few days ago, in this form it is not the measure that the country needs in order to decrease unemployment and create new jobs as President Johnson hopes it will. It will, I am convinced, do nothing of the kind.

Ample confirmation of what Mr. Smit says appeared in two recently published articles. One by T.R.B., a regular and perceptive columnist in the New Republic magazine, refers to an article by Stewart Alsop in the Saturday Evening Post, wherein the latter makes the challenging comment that any rich man looking over the present tax bill ought to be a riproaring Democrat. And T.R.B. quotes Alsop as follows:

> If Richard M. Nixon were President, and if he had proposed such a bill, it would have been denounced as a rich man's tax bill and a payoff to business by the whole northern Democratic Party and the entire liberal press. It would never have had a chance of passing.

And, T.R.B. says:

> We think Alsop has a point.

I, too, am convinced that Alsop has a point, and I am hoping that President Johnson, who has made such a magnificent start in tackling the overwhelming burdens tragically thrust upon him, will have his experts take a sharp, deep, and penerating look at the present draft of the tax bill and lend his support to some of the amendments which will be proposed in committee and, if voted down there—as they probably will be—will be reoffered on the floor.

I might say that one of the amendments which strikes me as essential is to provide a substantial increase in the present exemptions. The present exemption is $600 for the taxpayer and for each of his dependents. There are further exemptions for people who are blind and who are over the age of 65. These exemptions are readily understood by every taxpayer. They furnish the most essential relief to the man with a large family, precisely the man who needs such relief. Moreover this relief would apply equally to all—rich or poor.

Some months ago, our able and distinguished senior Senator from Indiana [Mr. HARTKE] proposed an amendment to the tax bill which would raise the exemptions from $600 to $1,000. I was happy to cosponsor this. I think this is an admirable amendment, and whether or not the Senate would accept the full amount of this $400 increase to the present exemptions, some such increase, applicable to all exemptions, or at the very least to exemptions for dependents, should be included in the bill. I hope that such an amendment will be offered to the bill. I intend to support it and I am confident that the American public would support it by an overwhelming majority.

I share the views expressed by my correspondent, Mr. Smit, and voiced by T.R.B. and by Stewart Alsop in his article entitled "The Great Tax Myth," and I ask unanimous consent that the letter from Mr. Smit, the article by T.R.B. which appeared in the New Republic of November 30, 1963, and Stewart Alsop's article from the Saturday Evening Post, be printed at this point in my remarks.

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

BETHEL, ALASKA,
November 18, 1963.

Hon. ERNEST GRUENING,
U.S. Senator,
Washington, D.C.

DEAR SENATOR GRUENING: This is to let you know that I have acquired an intense dislike for the tax bill which is now before the Senate. It seems to me very unfavorable to persons earning less than $10,000, and very favorable to those over $50,000.

The high tax rates for upper bracket people are not the effective rates it seems. I know from my own experience that when you get into a higher earnings bracket you have almost unlimited tax-avoidance devices. The big tears shed about confiscatory taxes are in my opinion blatent hypocrisy and should be resisted.

There has been a lamentable lack of guts on the part of Congress to tackle the tax loopholes. If these would be closed I would be happier with the bill. As it stands now, the bill is a method to rob the poor and give to the rich. And I am not so convinced that this is the only method to create new jobs.

I have noticed your making national headlines and history in the past weeks, about foreign aid. Millions of people have been waiting for years for what you said and did. I daresay your efforts were 99 percent supported by the voters. The newspapers have carefully refrained from pointing out the unfavorable aspects for the poor man flowing out of the tax bill. Perhaps some loud noises will help. I noticed that Senator DOUGLAS has started but the papers do not print it.

Best wishes from all of us.

Sincerely,

BEN SMIT.

[From the New Republic magazine, Nov. 30, 1963]

T.R.B. FROM WASHINGTON: UNGRATEFUL BUSINESS

Stewart Alsop in the Saturday Evening Post makes the challenging comment that any rich man, looking over the President's tax bill, ought to be a rip-roaring Democrat: "If Richard M. Nixon were President, and if he had proposed such a bill, it would have been denounced as a 'rich man's tax bill' and a 'payoff to business' by the whole northern Democratic Party and the entire liberal press. It would never have had a chance of passing." We think Alsop has a point.

What impresses this column are the extraordinary and almost abject concessions the administration makes to scornful business in the agonizing effort to do something that is in the best interest of the Nation and also of business itself. In the short run these concessions may aid the administration, too, and help Mr. Kennedy get reelected, but we regard the price paid as terribly high and even, perhaps, ultimately self-defeating.

Kennedy has given business, to begin with, the longest period without a recession since the war; indeed, it has lasted so long that the administration walks on tiptoe every time it goes into the same room with it, lest it explode. Eisenhower never did this for business. He gave business one sickening recession after another. Kennedy has given business some of the highest profits in history and prices that so far, at any rate, are uniquely stable.

Hardly a week goes by when the NAM or the U.S. Chamber of Commerce doesn't denounce one of Kennedy's mild reform proposals. Sometimes the attack is incomprehensible.

The most bizarre episode was when the chamber attacked the liberalized depreciation guidelines and twin tax reduction last year, that handed over $2.2 billions to corporations. Please the chamber? No; it demanded more and called the proposal a "gimmick."

Most businessmen, we think, are plain dumb; but Mr. Kennedy is trying to save them from a recession because it might cook his own political goose in the next 12 months. He believes his pending, massive tax cut will head it off, and we think it will, if anything can. The present graduated income tax bite is too sharp. A shopkeeper who finds that he can't make money because he has priced his goods too high modifies the price and sells more, with larger profit. Uncle Sam is trying to take too much in income taxes, and would gain more we think by asking less. The rates were imposed in wartime and poor old Ike never got around to reducing because when he thought about it his budget was generally unbalanced. Give Kennedy credit; he is the first President to try to cut that Gordian knot.

But what a price he has paid. He has been trying to get business support for the plan, saying over and over again, "I am a friend of business." He said it again before the Florida Chamber of Commerce last week. He boasted that he had established a private corporation to manage the satellite communications system, and that he was cutting back on Federal employees, and that "domestic civilian expenditures—excluding national defense, space, and interest on debt—were budgeted below last year, a feat rarely accomplished in the last 15 years."

WHY THE BOASTING?

The President boasts about something we consider deplorable. Every year America's population increases 3 million and civilian Federal expenditures ought at least to keep pace. He contrasts the modest overall increase in Federal expenditures with the huge increase in State and local expenditures. Of course, the latter are going up; if the Federal Government doesn't step in soon the States and cities will bankrupt themselves by doing the things that have to be done.

We don't blame the President entirely; he is caught in a cleft stick. He knows the tragedy and economic risk of letting the unemployment hemorrhage continue; for 5 years it has stayed over 5 percent. The thing that is going to tip the balance toward our next recession is lack of purchasing power, and you increase purchasing power by ending unemployment.

But almost in despair, as it sometimes seems, the President has sought to get the business-boosting tax cut through by making it more acceptable to conservatives. There isn't another modern nation on earth that wouldn't meet the crisis by public works and large-scale spending as well as a tax cut. With a certain unction that we deplore the President has disclaimed the spending remedy, and Secretary Dillon continually boasts of the fact.

A TERRIBLE GAMBLE

Again, the tax cut has been stripped of its so-called "reform" provisions and by that we mean the gaping loopholes to favored business groups; for example, 27½-percent oil depletion allowance. And finally, as Alsop writes in the Post, as Bernard Nossiter writes in the Progressive, and as Leon Keyserling sturdily testified in Congress, the sugarplums and lollipops of proposed tax cuts go primarily to large corporations and rich men.

The real question is whether a tax cut that aids already-favored producers will supply enough purchasing power to sustain prosperity, after its first shot-in-the-arm effect. It is a terrible gamble. Corporate beneficiaries will build bigger plants, but will there be enough consuming power to buy the goods from those plants?

Yet, in the short run, why should business worry about unemployment. It provides a docile army of scared workers who will think twice before striking. Government figures show incontrovertibly that wages are lagging behind productivity. Trade unions used to be aggressive in keeping wages ahead of workers' output—they aren't now. Kennedy has given business fatter profits, steady prices, a continuing labor surplus and proposed tax cuts. Is business for him? You bet it isn't.

[From the Saturday Evening Post]

THE GREAT TAX MYTH

(By Stewart Alsop)

WASHINGTON.—Most of us, when we pay our income taxes, find comfort in the thought that the very rich are really getting stuck. Alas, this happy thought is a myth. If the rich are rich enough and smart enough, they pay very little more, proportionately, than the rest of us. They may even pay less. If you don't believe this, try the tax quiz which follows.

The quiz is based on statistics prepared by the Office of Tax Analysis of the Office of the Secretary of the Treasury. The statistics are derived from taxes actually paid in 1960 by typical taxpayers—married, with two dependents, and with "typical dividends, capital gains, and other income, and typical itemized deductions." In other words, the statistics apply not to some fellow with a special tax situation, but to a typical taxpayer in each bracket. Here is the quiz:

1. It is a widely advertised fact that under present law the highest tax rate in our system of progressive income tax is a confiscatory 91 percent. How many people in this country pay 91 percent on their real incomes? (a) 323; (b) none; (c) 8,429; mark one.

2. Take a taxpayer with an income of a million dollars a year after deductions. What percentage did Mr. Million pay on his adjusted gross income (line 11, page 1 on your tax return)? (a) 87 percent; (b) 59 percent; (c) 26 percent; (d) 71 percent.

3. How much did Mr. Million have left out of his million-a-year income after paying his tax? (a) $187,000; (b) $1,239,659; (c) $91,362; (d) $9.28; (e) $525,478.

4. Under our system of progressive taxation, which of the following typically pays the highest percentage of income as taxes under present tax laws? (a) $9,000-a-year man; (b) million-a-year man; (c) $50,000-a-year man.

5. Same question, under the administration-approved, House-passed tax bill.

Here are the answers, as supplied by the Treasury Department:

1. (b) No one in the country pays 91 percent on real income. The reason is simple. Anyone who makes that kind of money also has enough money to hire a good tax lawyer. The tax lawyer will find all sorts of ways to cut back on taxable income, while leaving his client with plenty of untaxed or low-taxed spending money.

2. (c) Mr. Million paid $261,929—or about 26 percent—on his adjusted gross income of a million dollars. Actually, Mr. Million undoubtedly paid less than 26 percent on his real income. Just about every Mr. Million in the country has part of his money in tax-free bonds. The income from such bonds, which is free of Federal tax, need not be reported to the Treasury.

3. (b) Yes, that's right—after paying his tax of $261,929 on his adjusted gross income of $1 million, Mr. Million ended up with an "after-tax income" of almost a million and a quarter. The explanation of this neat trick is, of course, the special treatment of capital gains, with a maximum tax of 25 percent. Under present law, only 50 percent of realized long-term capital gains are included in adjusted gross income. The money he made on the other 50 percent explains why Mr. Million's after-tax income was higher than the adjusted gross income he reported to the Treasury. Obviously, Mr. Million's tax lawyer makes certain that as much as possible of Mr. Million's income is in the form of capital gains, as little as possible in income taxable at the progressive rate.

4 and 5. (c) Under what is supposed to be a system of graduated tax, a man with $50,000 a year typically pays a greater percentage of his income to the Government than a man whose income is 20 times as big. Mr. Typical $50,000-a-year, according to the Treasury figures, pays 28.5 percent of his income under present law, and would pay 24.5 percent under the administration bill. Mr. Million pays 26.1 percent and would pay 23.8 percent. Actually, since Mr. Million undoubtedly has a lot of money in tax-free bonds, the disparity is almost certainly greater than that.

These rather surprising statistics were furnished by the Treasury Department as an answer to Senator ALBERT GORE's charge that the administration-supported, House-passed tax bill was a "rich man's bill." They were intended to disprove Senator GORE's charge that a very rich man would more than double his income after taxes under the administration bill, while a man in the $12,000-a-year bracket would get a mere 5 percent increase in after-tax income.

Senator GORE's statistics are as accurate as the Treasury's, as regards taxable income. But what the Treasury's statistics make clear is that no rich man in his senses takes the bulk of his income in taxable form. He uses all sorts of techniques to keep his money out of the Treasury's grasping hands—capital gains, depletion allowances for all or other resources, real-estate deals, charity, tax-free bonds and so on. Thus, in fact, Mr. Million's real income will not increase by a much greater percentage than the $12,000-a-year man's, if the administration bill is passed.

In the process of proving this point, the Treasury statisticians have inadvertently proved another. The widespread notion that this country's tax system is steeply progressive, and in the top bracket confiscatory, is a myth.

Certain further conclusions can reasonably be drawn from the Treasury's surprising statistics. First, the rich, if they regarded their own economic self-interest, ought to be rip-roaring Democrats. If Richard M. Nixon were President, and if he had proposed such a bill, it would have been denounced as a "rich-man's tax bill" and a "payoff to business" by the whole northern Democratic Party and the entire liberal press. It would never have had a chance of passing.

Second, if the Treasury really took nine out of ten dollars from the income of a man with a lot of money to invest, the capitalist system would collapse—no sensible man wants to risk his capital for the Treasury's benefit.

And third, a man cannot possibly get rich by earning a salary or other taxable income—dear old Uncle will take the stuff away from him. Under the capitalist system, which works imperfectly but better than any other yet devised, the only way to get rich is to be a capitalist. The only way to make money and keep it is to use money to make money.

TRADE WITH OUR ALLIES

Mr. KEATING. Mr. President, as the United States takes appropriate action in the so-called chicken war, there is looming another problem, of equal concern to the poultry and dairy industries.

The European Economic Community has also moved to raise import fees and levies on dried and frozen egg products. In a recent letter, the Agriculture Department stated that present EEC duties on eggs vary from 27 percent ad valorem duty on dried yolks to 38 percent on frozen yolks.

There can be no doubt that this level of duty will be most injurious to U.S. trade and that every effort must be made to reduce these levies. It is incredible to me that the nations of Western Europe are on the one hand refusing U.S. efforts to restrict long-term credits to the Soviet Union, yet on the other hand, goods coming primarily from the United States are subject to ever-increasing duties that may well result in a large cutback of U.S. sales and other activities in Europe.

Mr. President, I hope our Government will not let this matter drop but will pursue it vigorously to secure a better understanding among our allies of the basic principles of international trade and a more sympathetic attitude, not toward the Communist bloc, but toward their own Atlantic trading partners.

Mr. President, I ask unanimous consent to include in the RECORD the text of a letter received from the Department of Agriculture.

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

U.S. DEPARTMENT OF AGRICULTURE,
FOREIGN AGRICULTURAL SERVICE,
Washington, D.C., November 20, 1963.

Hon. KENNETH B. KEATING,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KEATING: This is in reply to your inquiry, addressed to the U.S. Tariff Commission, on October 7 for information on the recent action of the European Economic Community in raising its import fees and levies on certain dried and frozen egg products. The Tariff Commission forwarded your inquiry to this Department for further, more detailed reply.

West Germany is the primary customer in the Community for U.S. dried eggs and frozen egg yolks. Prior to the adoption of the common agricultural policy for egg products, West German import duties were ad valorem rates equivalent to about 8 cents per pound for dried whole eggs and 7 cents per pound for frozen egg yolks. With the adoption of the new import regulations for egg products, which became effective in August 1962, the levy on West German imports of dried whole eggs was established at 36.8 cents per pound and on frozen egg yolks at 18.6 cents per pound. In addition, gate prices were established in a fashion similar to those imposed for poultry meat.

By November 1962, West German importers were expressing concern with the high levies, and the West German Government requested the EEC Commission to grant a reduction in the levies for egg products used in the manufacture of other foods—primarily noodles. In January 1963, the EEC Commission granted this concession and lowered the levies for egg products to be used for manufacturing to 12.2 cents per pound for dried whole eggs, 12 cents per pound for dried yolk, and 6.2 cents per pound for frozen egg yolk. The levies continued to rise, however, as quarterly adjustments were made, and by October 1963 the levy for dried whole eggs had increased to 21.7 cents per pound, for dried egg yolks to 23.3 cents per pound, and for frozen egg yolks to 11.9 cents per pound.

The gate prices at that time were $1.038 per pound for dried whole eggs, $1.128 per pound for dried yolks, and 57.4 cents per pound for frozen egg yolks.

On October 7, the EEC Commission imposed a supplementary levy of 17 cents per pound on dried whole eggs, and 5.67 cents per pound on both dried and frozen yolks. This was imposed because egg products from some competing countries were being offered at prices below the gate prices, although reports from U.S. exporters indicate sales of dried whole eggs at slightly above the gate price, while sales of U.S. frozen egg yolks were being made at somewhat below the established gate price. The adoption of the supplemental levy has increased the total levy on West German imports of dried whole eggs to 38.7 cents per pound, or an equivalent ad valorem of about 35 percent, of dried yolks to 28.9 cents per pound, or an equivalent ad valorem of about 27 percent, and of frozen yolks to about 17.5 cents per pound, or the equivalent of about 38 percent ad valorem. The total charges on frozen egg yolks now amount to about 17.5 cents per pound, or the equivalent of about 38 percent ad valorem.

This action can be expected to hurt our trade sharply, and we are protesting it. In the last tariff negotiation with the Community, we were not able to negotiate concessions on the level of duties on egg products with the EEC or to make the same sort of arrangement that was made for poultry, so our basis for action is not as clear cut as that for the action we are taking in the case of poultry meat. However, we will do all we can to obtain a reduction in these levies.

Sincerely yours,

C. R. ESKILDSEN,
Associate Administrator.

THE CHAIRMAN OF THE HOUSE COMMITTEE ON RULES IS TO BE COMMENDED

Mr. ERVIN. Mr. President, Judge HOWARD W. SMITH, chairman of the House Committee on Rules, merits the thanks of all Americans opposed to governmental tyranny for insisting that the House Committee on Rules should conduct hearings upon H.R. 7152, the misnamed civil rights bill.

As the minority report accompanying this bill so well states, this bill was "reported to the House without the benefit of any consideration, debate, or study of the bill by any subcommittee or committee of the House and without any member of any committee or subcommittee being granted an opportunity to offer amendments to the bill. This legislation is the most radical proposal in the field of civil rights ever recommended by any committee of the House or Senate. It was drawn in secret meetings held between certain members of this committee, the Attorney General and members of his staff, and certain select persons, to the exclusion of other committee members."

It is to be hoped that the House Committee on Rules will conduct hearings upon H.R. 7152, and let its contents be made known to the American people before the House of Representatives votes upon this proposed legislation. The crucial importance of conducting hearings upon bills of this nature is made manifest by what has befallen other so-called civil rights bills presented to this Congress; namely, the original H.R. 7152, the substitute adopted for H.R. 7152 by the drafting subcommittee of the House Committee on the Judiciary, and S. 1731. Hearings were conducted upon these three prior so-called civil rights bills by the House Committee on the Judiciary and the Senate Committee on the Judiciary. During the course of these hearings, the constitutional and legal sins embodied in these three prior proposed civil rights bills were pointed out, and even those who originally urged their enactment have forsaken them.

The bill now pending before the House Committee on Rules is the most monstrous blueprint for governmental tyranny ever presented to Congress, and for this reason, it is to be hoped that a majority of the House Committee on Rules will conduct hearings upon this bill before sending it to the floor for House action.

The present bill is incompatible in many respects with the system of government created by the Constitution. Moreover, it will rob all Americans of some of their most basic economic, legal, personal, and property rights for the supposed benefit of only one segment of our population. If this bill should be enacted into law, it will do more to concentrate the power to control the functions of local government and the basic economic, personal, and property rights of American citizens in a centralized Federal Government at Washington than any other law passed by the Congress since the foundation of the Republic.

Since the bill undertakes to concentrate in a centralized Federal Government powers of unprecedented severity and sweep, the House Committee on Rules should conduct extensive hearings upon the bill to the end that both the Congress and the American people might learn the threat which it poses to local self-government and to the basic liberties of all Americans.

Indeed, all of us who are vested with any degree of governmental power would do well at this crucial time to heed these words of Woodrow Wilson:

> The history of liberty is a history of the limitation of governmental power, not the increase of it. When we resist, therefore, the concentration of power, we are resisting the processes of death, because concentration of power is what always precedes the destruction of human liberties.

FOREIGN AID

Mr. McGOVERN. Mr. President, I am most impressed by an address on foreign aid delivered to the New York Chamber of Commerce by the Honorable Eugene R. Black, former Director of the World Bank.

Mr. Black began his address by words of high praise for Mr. David Bell, the present Director of the Agency for International Development. I share this high regard for the ability, the integrity, and the devotion of David Bell. But considering the brilliant success which Mr. Black has enjoyed in his own handling of aid programs, his expressed confidence in our present AID Director should be most assuring to the Nation.

I ask unanimous consent that the highly informed address by Mr. Black be printed at this point in the RECORD.

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

FOREIGN AID

(Text of an address by Eugene R. Black, former President of the World Bank, director of the Chase Manhattan Bank, before the New York Chamber of Commerce, November 12, 1963)

Mr. Champion, gentlemen, when I retired from the World Bank last January, I solemnly resolved that I would retire from making public speeches at the same time. For the first 40 or 50 years of my life I got along very well without making any public speeches, and, on leaving the World Bank I had hoped to return to this comfortable state of affairs. But I didn't figure on George Champion's insidious persuasiveness. He undermined my good resolutions, and he did so by appealing to the all-too-obvious need for those of us once connected with that business called foreign aid to speak out occasionally, to remind people that there is a problem, a very important problem, and that we have to learn to live with the problem just as surely as every new June bride has to learn to live with her mother-in-law.

The open season on foreign aid in Congress is exceptionally late and violent this year; the Appropriations Committees still have to reach their separate verdicts and the House-Senate conference, as usual, will have a job of compromising to do. In these circumstances, I do not want anything I say here to be interpreted as a lack of support for foreign aid. I believe in foreign aid. More important in the present circumstances, I think David Bell, the man charged with making the Agency for International Development work well, deserves from Congress a chance to show his mettle. Working with Mr. Bell on the Clay Committee, I was very impressed with his grasp of the complexities of his job and with the toughness of his mind.

In fact, if I could wish Mr. Bell one thing, I would wish him a clear-cut contract for at least 5 years in order that he might have a decent opportunity to put into effect some of the changes I know he wants to make. In the 15 years since the beginning of the Marshall plan we have had the ECA, the TCA, the MSA, the FOA, the ICA, and now AID. There have been 11 different foreign aid administrators, including Mr. Bell. That's an average tenure in office of less than 18 months. For a business that can't by its nature succeed in the short run, that is a formula for ineffectiveness if ever there was one.

I would also wish him some relief from his constant, and for long periods, total preoccupation with congressional reviews. Foreign aid is the only major program in the Federal budget which, in addition to the normal and necessary reviews of the Appropriations Committees, has to be authorized all over again each year in the House and Senate. In addition to that part of the foreign aid budget concerned with what I would call economic development, there is a large military aid budget which Mr. Bell must defend, yet which logically belongs in the regular military budget because, after all, an important justification for giving arms and other forms of military support to foreign nations is that we thereby economize on our own military commitments and expenditures. Aid must absorb an enormous and I think quite unnecessary administrative overhead because it has four congressional hurdles to clear anew each year, and a bill to defend which covers an unnecessarily wide variety of subjects. Mr. Bell deserves to be relieved of some of these chores, which for so much of the year effectively prevent him from doing the job that he was hired to do.

I do hope Mr. Bell has a chance to do the job I think he can do. I do not want any

thing I say here to be interpreted as opposing the pending legislation, or in favor of substantial cuts in the amount requested. But I do not hesitate to say that I think the way our Government has administered foreign aid in the past has been seriously remiss in several important respects. In fact, I think it is clear now that there is a large consensus on this score in Congress, in AID itself and among interested outsiders like my colleagues on the Clay Committee.

The recent report of the Senate Foreign Relations Committee reflected this growing consensus in several important respects. First, the committee stressed the need to introduce more stability into the administration of foreign aid; second, the committee underscored the importance of persuading other nations, particularly former beneficiaries of the Marshall plan, to carry more of the financial burden. Finally, and I think most important, the committee made an appeal for more attention to the quality of the assistance that we give. Let me for a few minutes give my own variations on those three themes.

The Senators said that they were "unenthusiastic about aid programs * * * whose major purpose is to provide an alternative to Soviet bloc aid." Now here I think they put their fingers on one of the prime causes of instability in the administration of foreign aid in the past and of public disillusionment with foreign aid in the present. I have frequently argued that we ought to be very skeptical about crediting or debiting foreign aid for dramatic changes in the political atmosphere. It has been my experience that foreign aid has rarely gotten us anywhere in the short run. Foreign aid can be—should be—a most effective agent against communism in the long run by encouraging those policies and practices in other nations which lead to lasting economic growth. But it cannot be effective if it is turned on and off like a faucet in response to unreasonable political expectations.

I have been most interested of late to see how the Russians themselves appear to be painfully discovering the fact that foreign aid is not a very useful weapon for political skirmishes. I have over the years confidently predicted that the Soviets would find foreign aid an unrewarding business from the point of view of their political interests. Now it would seem that they are beginning to think so, too.

The Soviets have a vested interest in everybody else's troubles. Buttressed by their naive belief in communism as the wave of the future, they are out to create political and economic instability as a prelude to communism. To them, foreign aid is definitely a temporary business, designed to secure windfall economic and political profits.

Let's take a look at the record. No doubt some will regard Cuba as their shining success. But Russian foreign aid did not create Castro or bring him to power. Russian foreign aid only came after he was in power. The question is, "Will Russian foreign aid keep Castro in power?" This must be an embarrassing question to the Soviets; Cuba's bill which the Soviets have to pay is currently running at $1.5 million a day. Perhaps $2 billion worth of ruble aid has already gone to Cuba. Recent evidence in the newspapers suggest that the Soviets are very unhappy at this continuing drain. It would seem that the Soviets face the choice of reducing the drain by assuming ever more directly the functions of the Cuban Government or of gradually backing away. Cuba, after all, is a relatively rich country, and this the Soviets know. Russian foreign aid to Cuba is almost certain to be a temporary business and so far it has clearly not been a very successful business.

What about the other countries to which the Russians have sent foreign aid in search of windfall profits? The list includes India, Afghanistan, Ceylon, Nepal, and Burma in south Asia; Syria, Iraq, and Egypt in the Middle East; Mali, Guinea, Ethiopia, Ghana, and Somalia in Africa; Cambodia and Indonesia in the Far East; and Brazil and Argentina in Latin America. These are the countries to which the Soviets have given or lent each $50 million or more which is hardly a large sum by the standards of U.S. aid, or, as a matter of fact, by World Bank standards. What about the windfall profits achieved?

In Iraq, a major recipient of Soviet aid, the Communist-backed Prime Minister, Kassem, lacked staying power; he was assassinated, and the Communist Party was outlawed under the succeeding regime. In Egypt, despite the Aswan Dam and considerable military assistance, the Communist Party remains outlawed—and the Egyptian Government last year decided to adhere to the General Agreements on Tariffs and Trade (GATT), the bulwark of the West's multilateral trading system. India, despite a billion dollars in Soviet aid, remains the world's largest working democracy and is clearly not alined with the Communists.

If the Soviets have failed to show much in the way of windfall profits out of their foreign aid, their often obviously temporary and troublemaking interest in the business has been brought home forcibly to many countries. Burma has experienced the ill effects of having its rice shipped to Russia and resold on the world market; Egypt has had the same experience with its cotton. Guinea, until recently exclusively dependent on Soviet bloc aid, has learned what it is to wait while promised Soviet delivery dates slip by and, in company with other countries, has experienced the illusion of the Soviet terms of aid, which are characteristically low in interest charges and high in the price of the goods shipped. Also, the goods have frequently been quite inferior, and there have been lots of difficulties with spare parts.

Our own foreign aid program has been similarly unsuccessful insofar as it has been used as an instrument for bartering against the Communists for the favor of the governments of the underdeveloped countries or for short-term political advantage in those countries. Foreign aid just is not suitable as a means of inoculating governments against communism or bringing about instant conversions from that political religion. Yet despite Mr. Bell's several references to the long-term problems to which foreign aid must be addressed, we still hear promises of economic and political windfall profits held out as arguments for increasing or maintaining the level of foreign aid. And recently these arguments have taken a new twist; we now hear urgent pleas to stop foreign aid when a coup d'etat is staged in a country we have been helping, and a less tolerant ruler replaces a more tolerant one, and I'm afraid that here again we are pursuing unreasonable political expectations in the name of foreign aid.

Instead of trying to identify foreign aid with unrealistic political expectations, we ought to have been identifying it with high priority development projects—projects which are well engineered, well planned financially and which promise to produce things these countries want and need to earn their way in the world. Foreign aid in these countries ought to be identified with fiscal policies which offer some hope that local savings will flow into serious developments and not flee the country or disappear in inflation. Foreign aid ought to be identified, not with promises by countries of what they may do in the future, but with the first tangible steps toward action necessary to make economic growth a reality. Foreign aid ought to be identified with tax collection, not tax evasion; it ought to be identified with a healthy investment climate for foreign capital and not with the expropriation of foreign properties.

Here again there is a growing consensus, shared by the Senate committee and I know by Mr. Bell himself, that the major trouble with our foreign aid programs in the past has been too much concern over quantity and packaging, and too little concern over the quality of the product itself. I have said that a lot of the labels we have put on the foreign aid package in the past have been seriously misleading. I might add that I think there has been too much excitement over the quantities involved. Foreign aid has always been a stimulant to American exports; it is more directly now a stimulant than ever before. The Senate committee estimated that only 10 percent of current foreign aid expenditures represent a drain on the balance of payments. In view of this I cannot get very excited about the argument that foreign aid is a serious drain on our balance of payments.

I can and do get concerned over the fact that in the past we have been trying to spend more foreign aid than we have been able to administer effectively. We have been most reluctant to demand the conditions necessary to make aid effective in terms of economic development. We have settled for promises when we should have waited for action to justify our support. We have not developed that standard of project selection and preparation which should be the very hallmark of our work. In general we have succeeded in identifying foreign aid with large amounts of money, but not with large numbers of projects and programs which are building economic strength into the countries we are trying to help. Fortunately there has been concern in AID about these shortcomings as recent changes indicate.

Congress has tried in some cases to build into the foreign aid legislation some of the necessary conditions which should govern foreign aid if it is to be effective in terms of economic growth. There is for example the Hickenlooper amendment which would bar aid to countries which expropriate American property without prompt and adequate compensation. As a matter of fact, there is a new amendment to the Hickenlooper amendment which is being discussed now. That amendment goes even further than the original one and says that if any contracts or concessions are canceled by a foreign government, that no aid should be given to the country that canceled these contracts or concessions until adequate compensation has been paid, and paid in convertible currency. I'd like to say I am highly in favor of the Hickenlooper amendment and his new one. Congress has also opposed using foreign aid to support Government-owned industries. I certainly favor this legislative limitation. In both cases the climate for private investment is at stake. Not only should we, as a matter of course, use our aid in every way possible to improve the climate for our own and other foreign private investments; we should also avoid encouraging the governments of these new nations to expand their operations into areas where other forms of finance and enterprise can be encouraged. There is no government now receiving foreign aid which does not have more now on its administrative plate than it can digest. So, to condone with or aid the acquisition of foreign industrial properties or to use aid to foster government-owned industries cannot, in my opinion, be justified in the name of promoting economic growth.

But most of the conditions which should govern foreign aid if it is to be effective cannot be legislated. As a matter of fact, attempts to do so would only compound further the already very difficult administrative problem which the AID Administrator faces. The tests of success in any foreign

aid program are easy to state in generalities: Is the program identified with high priority projects which are producing a higher standard of living? Is the Agency insisting on reasonable fiscal policies as a prior condition for its help? Does the program encourage reforms needed for economic growth? But there is no way that Congress, through legislation, can insure that any foreign aid program will pass these tests. In spite of the fact that whole libraries of books have been written attempting to define some fiscal policies, there is in practice no substitute for careful and mature personal judgment in deciding when fiscal conditions are ripe for aid and when they are not. Nor is there any reliable substitute for personal judgment when it comes to choosing among projects—when it comes to deciding what is of high priority and what is not. Our Congress cannot legislate reforms for other nations; they have to be negotiated. So, on all of these counts the AID Administrator's lot is not an easy one. He must adopt standards, deliberately; he must set conditions, consciously; and he must do these things without leaving the legitimate preserve of economic development and wandering into the purely political preserve.

Since the line between these two preserves is often very unclear, anybody who undertakes to administer foreign aid is, by definition, living dangerously. I have always thought that an international organization could offer certain protections which are particularly valuable in the administration of foreign aid—provided, that is, that the international organization is like the World Bank or the Monetary Fund, itself governed by financial principles and not simply an organization to allow a lot of recipient nations to divide up the contributions of a few donor nations. I think, as a matter of fact I know, it is somewhat easier for an international organization to ask for, to demand, and to receive the assurances and conditions necessary for effective aid without being accused of undue interference in the international affairs of the recipient countries or of trying to get some political advantage. I was therefore interested to see the Senate Foreign Relations Committee pick up this argument and lend its own endorsement in its recent report. I personally believe that the balance between bilateral and multilateral aid should be redressed in favor of multilateral aid. I would even make a guess that it will be redressed as time goes on. And as it become more evident that foreign aid can only be effective if it is identified with projects and programs that are in fact producing lasting economic wealth.

I do not look for or recommend any radical shift away from bilateral aid in favor of mutlilateral aid, but I do look for a gradual shift. I don't think bilateral aid can ever be completely free from the political pressures of the moment; to some extent it is bound to be wasted in efforts to put out political fires. In the long run, I think foreign aid will come to be accepted most readily where it is administered by organizations, like the World Bank and the Monetary Fund organizations, whose primary objective is economic development and not to gain some political or commercial benefits.

But the problems besetting our foreign aid program are not basically institutional. Whether foreign aid is administered internationally, regionally, or bilaterally, the important thing is the quality of the product—the conditions asked and the standards set.

I'd like to leave you with these three thoughts:

Some say that if the threat of communism were to disappear tomorrow, Congress would immediately cut off all foreign aid. I think this is a cynical argument. We don't need foreign aid because the Communists make it necessary. We malign the power and impact of our own heritage when we couple foreign aid with the twists and turns of Communist policy. We give foreign aid because it is both imperative and unavoidable that we participate in the development of those countries which, largely because of their many-sided encounters with Western civilization, are desperately seeking some escape from their poverty. We have foreign aid because the achievements of our way of life in the past have made it a matter of self-respect in other nations to ameliorate their mass poverty. The presence or absence of the threat of communism in no way alters this fact. If we are to remain a great nation in the Western tradition—if we are to remain true not just to our humanitarian tradition, not just to our economic precepts which are built on the fact that prosperity flourishes only when the maximum number of people and nations share in it—if we are to remain true to our own heritage and if we are to accept the responsibilities history has thrust on us, then we will continue foreign aid.

Second, I would like to suggest that we approach Congress in this direct way, and stop pretending that foreign aid is a sure cure for the political ills that plague us at the moment. Foreign aid should be presented to Congress as a means of promoting economic growth and nothing else. It should be presented in terms of projects designed to produce real wealth. It should be presented in response to actions, not promises, on the part of other countries which are seriously interested in economic growth. It should be presented, not as a bribe for other nations to reform, but as an investment in other nations where reforms are already underway. Do this and I suggest the political benefits will come as natural byproducts. Can we not say of our own experience that it is by concentrating on economic development that we have most successfully ameliorated our own political problems? Should we not say of foreign aid that economic development is what we are after in the realistic hope that it will yield political byproducts consistent with our own security and prosperity? We've tried putting the political byproducts first; now I think we should try putting economic development first.

Finally, I agree with the Senate Foreign Relations Committee that more effort and thought should be given to ways and means of internationalizing our aid effort. The challenge of development in Asia, Africa, and Latin America affects all Western nations because all Western nations have contributed so much to the kind of world we live in today—a world divided increasingly by the gap in wealth between those who have practiced economic development and those who are only just now learning how. It makes political sense, but more important it makes economic sense to pool the resources and talents of the Western nations in organizations which have no other purpose than promoting development. This is the best way, I submit, to gain acceptance for the conditions which must be met before foreign aid can do its work.

The question, then, is not: "Should we continue foreign aid?" Of course we should and we can afford every penny which is administered effectively. The question is: "How can we improve the quality of the products?" Foreign aid is one business where it should be a matter of pride to produce a quality product. And if we insist on this I predict that the growing opposition to foreign aid by Congress and others will disappear as it should.

PEARL HARBOR DAY

Mr. FONG. Mr. President, tomorrow marks the 22d anniversary of the attack on Pearl Harbor. I remember that day of infamy vividly—I was there in Honolulu only a few miles from the scene of the attack.

Hawaii was our bastion in the Pacific and busy with preparations for the possibility of war. Yet when the attack came, it caught us by surprise.

Today, while we pause to pay tribute to those brave men who died that day at Pearl Harbor, we here in the Congress must resolve that Americans will never die through our failure to provide for their protection.

The memory of man is short but we must never forget the tragic lesson of Pearl Harbor. America has an Army, Navy, and Air Force second to none, but our protection for our civilian population is far behind such countries as Sweden, Switzerland, or Finland.

We must forge a program of protection for both the military and the civilian population that will guarantee a fighting chance for survival to each of us, not only as individuals but as a nation.

This means a strong and adequate civil defense program for the Nation, as well as strong military forces.

As Members of the Senate of these United States, we must dedicate ourselves to the strengthening of our armed might and of our civilian front, even as we intensify our quest for peace.

Through strength and alertness, we can best defend our peace at home and abroad, and prevent a repetition of the day of infamy 22 years ago.

THE EVIDENCE JUSTIFIES A FAIR TEST FOR KREBIOZEN NOW

Mr. DOUGLAS. Mr. President, as Members of this body may know, I have been interested for some years in obtaining a fair and impartial test for the chemical preparation known as Krebiozen, developed by Dr. Stevan Durovic of Chicago. The distinguished physiologist, Dr. Andrew C. Ivy, is its chief scientific sponsor, and believes Krebiozen to be beneficial—and I emphasize the word "beneficial"—in the treatment of cancer.

Not being a medical man or a physiologist, I have always made it clear that I have never claimed that Krebiozen was a cure for cancer. I have merely asked that it be given a fair test along with the thousands of preparations which, according to verbal statements made to my office by officials of the National Cancer Institute, are now tested by them each year on animals and the approximately 100 which are annually tested by them on human beings.

WHY I HAVE ASKED FOR A FAIR TEST OF KREBIOZEN

I was led to make this request for several reasons.

First. The first was the high quality of Dr. Ivy's work and scientific reputation. I have known of this man for over 40 years and was for some years his colleague at the University of Chicago. He was the favorite student of the great physiologist A. J. Carlson, and went on to a distinguished record at the University of Chicago, Northwestern University, and the University of Illinois.

At the University of Illinois he was vice president charged with the general supervision of the medical faculties, hospitals, and medical research laboratories.

Mr. President, I ask unanimous consent that a biographical statement of Dr. Ivy, taken from "Who's Who in America" for 1962–63, be printed at this point in the RECORD.

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

BIOGRAPHY OF ANDREW CONWAY IVY FROM WHO'S WHO IN AMERICA, VOLUME 32 (1962–63)

Ivy, Andrew Conway, physiologist; b. Farmington, Mo., Feb. 25, 1893; s. Henry McPherson and Cynthia (Smith) I.; A.B., B.Pd., State Normal Sch., Cape Girardeau, Mo., 1913; B.S., U. of Chicago, 1916, M.S., 1917, Ph. D., 1918; M.D., Rush Med. Coll., 1922; D. Sc. (honorary) University of Nebraska, 1947, Grinnell (Ia.) Coll., 1947, Boston University, 1948; LL.D. (honorary), Loyola University, 1950; married Emma Kohman, December 24, 1919; children—John Henry, William Harvey, Andrew Conway, Horace Kohman, Robert Emerson. Instr. in physiology, U. of Chicago, 1917, asso. prof., 1919–1925; intern Mercy and Augustana Hosps., Chicago, 1921–22; head of div. physiology and pharmacology, Northwestern U. Med. Sch., 1926–46; vice pres. charge Chicago Professional Colls., U. of Ill., 1946–53; distinguished prof. physiol., head dept. clinical science, 1946—; scientific dir. Naval Medical Research Inst., 1942–43; cons. U.S. Army Q.M., 1943–44; mem. Nat. Adv. Cancer Council, 1944–51; exec. director, 1947–51, dep. dir. Chicago Medical Civil Defense since 1950. Commander, Aviation Med. N.R. Corps., 1941; consultant Sec. War on War Crimes, 1946–47. Served as 2d lt., Missouri National Guard, 1912–13; student officer, M.O.T.C., AUS, 1917–18. Mem. bd. mgrs. Young Men's Christian Assn., 1955—. Fellow American College Physicians, Gorgas Medical Society (hon.); mem. A.M.A. (chmn. sect. physiology and pathology 1931), Ill. and Chicago med. socs., Soc. Internal Medicine (pres. 1941–42), Am. Assn. U. Profs. (council 1929–31), Am. Gastro-Enterol. Assn. (pres. 1940–41; mem. editorial bd.), Harvey Soc. (hon), Am. Physiol. Society (sec. 1935–39; pres. 1939–41; mem. editorial bd.), Soc. Exptl. Biology (mem. editorial bd.), Des Moines Acad. Med. (hon.), Chicago Inst. Med. (pres. 1943), Am. Inst. Nutrition, Ill. Acad. Science, Assn. Study Internal Secretions, Commn. Chronic Illness (mem. exec. comm.), Alpha Omega Alpha, Sigma Xi, Alpha Kappa Kappa, A.A.A.S. Methodist; Mason; author: Peptic Ulcer; Observations on Krebiozen in Management of Cancer Patients, 1956, 1500 scientific articles. Mng. editor Gastroenterology 1942–52. Address: 1835 West Polk St., Chicago.

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

Mr. DOUGLAS. I yield to the distinguished Senator from Wisconsin, whose father was one of the most eminent physicians in the State of Illinois.

Mr. PROXMIRE. As the Senator from Illinois has said, Dr. Ivy, the chief scientific sponsor of Krebiozen, is a man of extraordinary qualifications.

I emphasize that the biography which the Senator from Illinois has just placed in the RECORD is most impressive.

Is it not true that Dr. Ivy has three degrees from the University of Chicago; namely, a B.S., an M.S., and a Ph. D. in physiology; and that he also has an M.D. from the Rush Medical College, which, as I understand, is the medical school of the University of Chicago?

Mr. DOUGLAS. It was at that time; it is not now.

Mr. PROXMIRE. He has also earned an honorary degree from the University of Nebraska; as well as a degree from Grinnell College, in Iowa; a degree from Boston University; and an honorary degree from Loyola University. Is that correct?

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. This man not only has a superb education, which would qualify him as well as any man possibly could be qualified to evaluate a chemical or a drug, but he has been an instructor for most of his life. Is that correct?

Mr. DOUGLAS. That is correct. He was a member of the National Advisory Cancer Council from 1944 to 1951, and was the executive director of it from 1947 to 1951.

Mr. PROXMIRE. Yes. I think the biography is so impressive that, rather than merely put it in the RECORD, we should discuss it.

He was an instructor in physiology at the University of Chicago in 1917, and associate professor from 1919 to 1925. He was the head of the Division of Physiology and Pharmacology at Northwestern University Medical School from 1926 to 1946. He was vice president in charge of Chicago Professional Colleges, University of Illinois, from 1946 to 1953.

Mr. DOUGLAS. That is true.

Mr. PROXMIRE. He was a distinguished professor of physiology, and head of the department of clinical science, from 1946 for a period of years. He was the scientific director of the Naval Medical Research Institute in 1942 and 1943.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. He was consultant to the U.S. Army Quartermaster in 1943 and 1944. He was a member of the National Advisory Cancer Council from 1944 to 1951. He was the executive director of it from 1947 to 1951, or the latter 3 years of that time. Is that correct?

Mr. DOUGLAS. The latter 4 years—from 1947 to 1951.

Mr. PROXMIRE. His standing in the medical profession is indicated by the fact that he was a fellow of the American College of Physicians; a member of the American Medical Association; and chairman of the section on physiology and pathology of the AMA.

Mr. DOUGLAS. The Senator is correct.

Mr. PROXMIRE. So he is an expert and has been recognized by the AMA as an expert in this particular field.

He was also president of the Society of Internal Medicine from 1941 to 1942.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. And he was president of the American Gastro-Enterological Association in 1940 and 1941.

Mr. DOUGLAS. The Senator is still correct.

Mr. PROXMIRE. He was also president of the Chicago Institute of Medicine in 1943.

Mr. DOUGLAS. Of the Society of Internal Medicine.

Mr. PROXMIRE. I beg the Senator's pardon. I was reading beyond that point in his biography.

Here is a man who has written 1,500 scientific articles, and is managing editor of "Gastroenterology," which is considered the official publication in this field.

Mr. DOUGLAS. He was editor from 1942 to 1952.

Mr. PROXMIRE. That is correct—10 years.

Mr. DOUGLAS. When Dr. Ivy gave his endorsement to Krebiozen, the American Medical Association and various pundits in the medical profession took it on themselves to subject him to disciplinary action.

Mr. PROXMIRE. Is it possible to conceive of the biography of a man who would possibly qualify better, on the basis of education, experience, and recognition by the profession, than Dr. Ivy in evaluating a drug, particularly for the cure of cancer?

Mr. DOUGLAS. I know of no better qualified man in the country.

Mr. PROXMIRE. Is it not true that what the Senator from Illinois is asking is not that Krebiozen be approved, but that it simply be given a test?

Mr. DOUGLAS. That is all I am asking. That is all my associates are asking.

Mr. PROXMIRE. What the Senator from Illinois is asking is that this most eminent professor and doctor be given an opportunity to prove what he says?

Mr. DOUGLAS. Yes.

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

Mr. DOUGLAS. I yield.

Mr. RUSSELL. I must confess my ignorance of this subject, but I have received a few letters from my own State, in which it was stated that husbands, wives, or children had been saved by this drug or preparation, and that they hoped it would not be done away with; but I was of the opinion that I had read in the press the Food and Drug Administration had made an exhaustive inquiry into it and issued a statement, sometime since, that it had no medical value whatever.

Mr. DOUGLAS. The FDA issued a statement that Krebiozen was identical with the substance creatine, but no clinical test or exhaustive inquiry was made. I am presenting to the Senate today the report of a committee of qualified experts whose study has shown not only that there was no exhaustive inquiry, but that the reports of the FDA and the NCI were based on unfair, inaccurate, and prejudiced statements.

Mr. RUSSELL. Is the Senator proposing that another study or inquiry be conducted?

Mr. DOUGLAS. Yes; a fair and impartial clinical study. I should like to present to the Senate and to the country the reasons why I believe the statements of the Food and Drug Administration, and indeed of the National Cancer Institute were ill founded; and why the product should be judged only on the weight of the evidence of scientific opinion, as well as the opinion of the intelligent lay public.

Mr. RUSSELL. Mr. President, of course I know almost nothing about it, and I have very little information in this field. But I was rather surprised, in the light of the letters I have received

from intelligent people, who thought that they had been assisted by this preparation, to read in the newspaper that the Food and Drug Administration had declared it to be altogether worthless.

Mr. DOUGLAS. I was surprised and shocked, and it forced me, as I shall show, to ask that there be an independent inquiry and a report made to me. I shall present that report in a few minutes.

Second. A second reason which led me to ask for a fair test was that I had personally interviewed many cancer patients who have been treated with Krebiozen. The number of these people whom I have seen runs up into the scores and may total as many as a hundred. Many of these patients have told me that they were on the point of death from cancer until Krebiozen treatments arrested their decline. In some cases, I have been given the clinical records of these people. All of these patients have testified that upon taking Krebiozen they had greatly improved. They gave external evidence of being in good physical condition. In some cases, this treatment had been given over a considerable period of time.

Perhaps I may be pardoned if I give one of many illustrations that have come to me. I attended a dinner in Chicago some years ago in honor of Dr. Ivy. At that dinner Dr. Ivy read the clinical record of a young man, who was in attendance at the dinner. When he had first come to be treated by Dr. Ivy, he was what is known as a vegetable; that is, he was not able to eat, he was not able to move, he was not able to talk, and he was given up for dead.

After reading the clinical record to the guests at the dinner, Dr. Ivy asked this young man to come forward and testify. He did so, in a very straightforward fashion, obviously mentally alert and in good physical condition.

During the dinner I noticed that this young man was looking at me with very interested eyes. At the end of the dinner he came to me and said, "Senator, do you think that Signor Fanfani will be able to organize a Catholic-labor coalition in Italy and put through land reform?"

I said, "Young man, I think your good health has been restored."

That is a spectacular case, but there have been other cases in which Krebiozen apparently has brought about similarly beneficial results.

I have also interviewed several doctors who have treated patients with Krebiozen and who stated that the results were markedly beneficial.

Third. A third reason I was lead to ask for a fair test was that the statistical record submitted by Dr. Ivy on the first 4,000 cases treated with Krebiozen and which I inserted in the CONGRESSIONAL RECORD, volume 108, part 11, page 14287, seemed to indicate that in a large percentage of cases markedly beneficial results had been obtained in first, the reduction of pain and the necessity for narcotics; second, the arresting of cancer and the reduction in the size of the cancer tumors, this being particularly true in the cases of breast cancer in women, and third, the improvement in the general condition of the patients.

I certainly did not regard all these factors as proving Krebiozen to be a cure for cancer and I believe neither did Dr. Ivy, but I did believe that they justified a fair and honest test.

MY EFFORTS TO OBTAIN SUCH A TEST

I therefore privately urged that there be such a test, by letter and by conferences with leading officials of the National Cancer Institute, the National Institutes of Health, and the Department of Health, Education, and Welfare. Specifically, I conferred with Drs. Heller and Endicott—the successive heads of the Cancer Institute—Dr. Shannon, the head of the National Institutes, and Mr. Boisfeuillet Jones, who, though, I am informed, not a doctor, is nevertheless the chief medical adviser to the Secretary of Health, Education, and Welfare. In the early days of these negotiations, I thought there were prospects for such a test being conducted, particularly while I was dealing only with Dr. Heller. Later, however, the attitude of the Government officials hardened and I became convinced that they would never voluntarily agree to such a test. I also became exposed to the opposition of many members of the American Medical Association, who were influenced by the written and spoken propaganda emanating from the leaders and officials of that organization. I knew that the course I was following was unpopular and that I was ranging powerful forces against me, but I also knew of the hundreds of thousands of men and women, and yes, children, who die each year after great agony from cancer and of the millions who will suffer such a fate in the future unless a cure or beneficial treatment is discovered. Knowing of the way the medical profession has often historically persecuted its pioneers and pathbreakers, I resolved to push on and to continue to ask for an honest test. I found that the cancer institutes are spending approximately $44 million a year on cancer research and according to a verbal statement made to my administrative assistant, Howard Shuman, they are testing as anticancer agents—approximately 25 thousand chemical preparations a year on animals and at least a hundred a year on humans.

It seemed to me that no harm, and possibly some good, would be done if Krebiozen were added to the list, particularly when the costs would probably not exceed $250,000 at the outside. Therefore on July 18 of this year, in association with Senators Kefauver, Bayh, Case, Engle, Holland, Javits, Keating, Pell, Proxmire, Scott, Smathers, Symington, Williams of New Jersey, Williams of Delaware, and Yarborough, I introduced a resolution—Senate Joint Resolution 101—directing the National Cancer Institute to "undertake immediately a fair, impartial, and controlled test."

THE ATTACK ON KREBIOZEN FROM THE FOOD AND DRUG ADMINISTRATION AND THE NATIONAL CANCER INSTITUTE

The Food and Drug Administration and the National Cancer Institute replied with an extraordinary series of moves. The Food and Drug Administration issued a press release on September 7 and later held a joint conference October 25 and 26, under the auspices of the American Medical Association in which Krebiozen was branded as a "hoax" and as being an illustration of "quackery."

The press release of the Food and Drug Administration is appended to the report of the Robinson committee in exhibit 14 which I shall ask to have printed in the RECORD at the conclusion of my remarks. In the process, Doctors Ivy and Durovic were threatened with criminal prosecution by the FDA. The action of the FDA was based on the alleged identity of Krebiozen with the substance creatine, which identity, it was stated, had been discovered through comparison of the spectrographic analyses of the two substances by a 20-year-old summer volunteer in their offices. The report of the National Cancer Institute, issued on October 16, 1963, which denied a test, was allegedly based upon an analysis of records of 504 typical cases submitted to them by Dr. Ivy. The press release issued by the NCI also is appended to the Robinson report in exhibit 14. Mr. President, I have copies of these case records in my office up to date as to the time when another set of copies went into the hands of the NCI, and they have therefore been available to me and my associates for examination. The Cancer Institute conducted extensive field investigations to enlarge the records of these cases, but I have not been able to have these additional data examined, nor will the Cancer Institute permit anyone else to look at them. Despite my request that in order that he might answer any questions they might have, the Department of Health, Education, and Welfare refused to permit Dr. Ivy to appear before their anonymous board of 24 "experts" who were called upon to appraise the cases. This committee in turn was shielded from public scrutiny.

Mr. President, only following the denunciation of Krebiozen by FDA and the NCI was a list of the names of these 24 men made public. This list is a part of the HEW press release of October 16 which is appended to the Robinson committee report as exhibit 14. We are analyzing the records. They seem to show that these gentlemen received a total of well over $700,000 in 1 year in grants from the National Cancer Institute, and over a 2-year period the figure is much larger than that.

When the Food and Drug Administration and the Cancer Institute published their denunciation of Krebiozen, I was, I admit, somewhat shaken. Could it be that Krebiozen was a hoax, after all, and completely unworthy of a test, as was being charged?

MY EFFORTS TO GET AN INDEPENDENT APPRAISAL OF THE CONCLUSIONS OF THE FDA AND NCI

But I recalled the persecution by the medical pundits of many of the great medical scientists: Harvey, the man who discovered the circulation of blood; Jenner, who discovered the vaccination for smallpox; Holmes and Semmelweis, who found that the cause of the deaths of mothers and their children in childbirth was due to the dirty hands of the doctors in attendance; Pasteur, who discovered bacteria and the bacterial theory of disease; Lister, who discovered the principal of antisepsis in surgery; Keen,

a student of Lister and later a great surgeon of Philadelphia; Ehrlich, the discoverer of 606; and more recently Sir Alexander Fleming, who discovered penicillin, but said that penicillin was neglected by the medical profession for about 12 years and called "quackery," and that thus tens of thousands of lives were lost during the intervening period by the attitude of official medicine. Remembering, I say, the way all those men had been persecuted by the official leaders of the medical profession of their times; and knowing at firsthand of the record of the heads of the Food and Drug Administration in connection with high protein fish concentrate, about which I spoke several days ago on the floor of the Senate, and in connection with wheat germ bread, and thalidomide, as well as the heinous conflicts of interest which have been recently revealed about one or more of its high officials, I felt it was my duty to see if I could not get an independent appraisal of the two sets of conclusions issued by the Food and Drug Administration and by the National Cancer Institute.

But how could this be conducted? I was not competent to do it myself, and most doctors were either frightened by the pressures of the American Medical Association or fearful that, if they questioned the Cancer Institute or the Department of HEW, their research grants would be cut off in reprisal.

But fortunately I was able to find a brave, honest, and competent doctor, Dr. Miles H. Robinson, of 10120 Chapel Road, Potomac, Md. Dr. Robinson is a member of a distinguished Pennsylvania family with whose members I have been acquainted for a third of a century. His parents achieved genuine eminence in the fields of finance, economics, social service, and religious betterment. Dr. Robinson is a man of the same breed. He graduated from Swarthmore and the University of Pennsylvania Medical School, and was later on the medical faculties of Vanderbilt University and the University of Pennsylvania, and subsequently in private practice. Fortunately, he has an independent income so that he could afford to take the time to act at my suggestion as chairman of the committee which I asked him to organize to prepare a report appraising the agencies' conclusions. Dr. Robinson has worked for virtually 3 months on this matter, voluntarily, without pay or reward.

THE QUALIFICATIONS OF DRS. ROBINSON AND ANDERSON AND MESSRS. CLARK AND SHUMAN

I also asked my Administrative Assistant, Howard E. Shuman, to work with Dr. Robinson as an editor or, as the French say, "redacteur" of his report. Mr. Shuman is a graduate of the University of Illinois and of Oxford University, where he was president of the Oxford Union, the highest distinction which a student can win. He came to me in 1955 from the University of Illinois, where he was an instructor in economics.

Let me say a further word about Dr. Robinson. I instructed him to search for the truth and to state his results regardless of whether or not these helped or injured Drs. Ivy and Durvoc. He did not need any such injunction, but he abundantly fulfilled it. We owe him an inestimable debt.

We speedily found that two distinguished Illinois scientists, Dr. Scott Anderson, a physicist, and Mr. H. S. Clark, a chemist, both of Urbana-Champaign, had been conducting independent tests of Krebiozen over a period of years and had direct evidence to refute the contention of the Food and Drug Administration that Krebiozen is identical with creatine. They came to Washington at their own expense to report to us on their studies, and their material furnishes the basis for part I of the report and for several of the exhibits which they prepared. These men are also of the highest competence and character.

Mr. President, I ask unanimous consent that a statement of the qualifications of the members of the committee be printed in the RECORD at this point in my remarks.

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

QUALIFICATIONS OF COMMITTEE PREPARING REPORT

DR. SCOTT ANDERSON

Ph. D. in physics, University of Illinois.

Fellow, American Physical Society.

Member, American Chemical Society, American Optical Society, and American Association of Physics.

Formerly taught at Carleton College and at Carnegie Tech.

Formerly acting head of Physics Department, Illinois Wesleyan University.

Member of board, Illinois Wesleyan University.

Owner of the Anderson Physical Laboratory in Urbana-Champaign, Ill.

MR. HOWARD S. CLARK

B.A., Ohio State University.

Member, American Chemical Society, American Association for the Advancement of Science, and Illinois and New York Academies of Science.

Helped establish course in microanalytical chemistry, Ohio State University.

Microanalytical chemist 4 years with Merck & Co. Research Laboratory, Rahway, N.J.

Chemist 10 years with geochemical section, Illinois Geological Survey.

Owner and director of Clark Microanalytical Laboratory, Urbana, Ill., 16 years.

DR. MILES H. ROBINSON, M.D., CHAIRMAN

B.A., Swarthmore College.

M.D., University of Pennsylvania Medical School, 1938.

Instructor in physiology, Vanderbilt Medical School, 1942–45.

Instructor in pharmacology at University of Pennsylvania Medical School, 1945–46.

Original research in these fields published in leading basic science medical journals, American Journal of Physiology, Journal of Pharmacology & Experimental Therapeutics, etc.

Member of Maryland State Medical Society and Montgomery County Medical Society.

Member, medical staff of Washington Sanitarium and Hospital.

Practices internal medicine in Potomac, Md.

Fought Teamsters and AMA in Washington State where they had a private agreement to block any labor controlled health insurance plan and to preserve high prices of local AMA doctors who owned and operated their own commercial health insurance corporations.

MR. HOWARD E. SHUMAN, SECRETARY AND EDITOR

Administrative assistant to Senator PAUL H. DOUGLAS since 1961; formerly legislative assistant, 1955–60.

B.A., M.A., University of Illinois, 1946, 1948.

B.B.A., University of Michigan, 1949.

B. Litt., Oxford University, England, 1951

On economics faculty, University of Illinois, 1953–54.

Rotary Foundation Fellow, Oxford, England, 1949–50.

Mr. DOUGLAS. One of the finest things in the record of Dr. Robinson is that when he was practicing medicine out west, he fought the Teamsters Union and the American Medical Association in the State of Washington, where the AMA and the Teamsters Union tried to preserve the high prices and the high fees of the local AMA doctors who owned and operated their own commercial health insurance corporations.

Mr. Shuman, whose qualifications have been given, is a highly honorable and competent man.

Mr. ERVIN. Mr. Presdent, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. ERVIN. Before the Senator goes to his next point, will he yield for a question?

Mr. DOUGLAS. I yield.

Mr. ERVIN. What was the effect of the action of the Federal Food and Drug Administration with respect to the ability of cancer patients who had been taking this cure to secure the drug following its disapproval by the Food and Drug Administration?

Mr. DOUGLAS. It was made impossible for them to receive it.

Mr. ERVIN. Like the Senator from Illinois, I am not a doctor. Personally, I do not feel competent to express an opinion as to the usefulness of the drug Krebiozen in the treatment of cancer. However, I am impressed by the number of letters I have received from persons who were suffering from cancer, who had been taking the drug, and who have great faith in it. Is that the experience of the Senator from Illinois?

Mr. DOUGLAS. Very much so. There are only two places where the drug can now be distributed: in the State of Illinois, where the American Medical Association is trying to have it barred, unsuccessfully as yet; and in Canada, where Krebiozen is permitted to be sold.

Mr. ERVIN. Irrespective of the question of the usefulness of the drug as a therapeutic agent, it seems to me that those who have been taking the drug and are convinced that it has been of benefit to them ought to be permitted to continue to receive it. Does not the Senator from Illinois think so, irrespective of the other question involved?

Mr. DOUGLAS. I have a large degree of agreement. I do not go the full way and I do not say that patients have the right to take whatever they want to take. Everyone admits that Krebiozen is nontoxic; that no harm results from taking it. The Food and Drug Administration

claims it is worthless, and that, therefore, if taken, it would stand in the way of more worthy and more efficacious preparations and methods.

What I do say is that the evidence shows that there should be, immediately, a full and fair test.

Mr. ERVIN. It seems to me that people who suffer from the scourges of this disease ought to be permitted to continue to obtain the drug, irrespective of its therapeutic quality, if it gives them mental and physical ease.

Mr. DOUGLAS. The Senator from North Carolina can make a strong case for that position. I do not go that far. I am not a member of the League for Medical Freedom, although I have great respect for its sponsors. But I do say—as I hope to develop in a moment—that no harm is done by taking this preparation, which all agree is nontoxic. We believe there is strong evidence that it may be beneficial; and we strongly disapprove of the methods used and the conclusions issued by the Food and Drug Administration and the National Cancer Institute.

Mr. ERVIN. Madam President (Mrs. NEUBERGER in the chair), I understand that all that the Senator from Illinois is asking is that a fair test be made of this drug, for the purpose of ascertaining whether it has therapeutic properties.

Mr. DOUGLAS. That is correct.

Mr. ERVIN. I should like to have the Senator from Illinois submit his ideas in regard to what a fair test would be.

Mr. DOUGLAS. I am not an expert on this point; but certainly a fair test should include a test on human beings who are willing to subject themselves to the test. The test should not be forced on anyone against his will; but if someone is willing to have the test made on him, I think that should be permitted, so that there can be a determination as to the efficacy or lack of efficacy of Krebiozen in the treatment of the different types of cancer. There should be what is called a controlled test, and it should be based on the willingness of persons to undergo the test. It is always possible to find volunteers.

Mr. ERVIN. I thank the Senator from Illinois for his efforts to have a fair test made.

Mr. DOUGLAS. I thank the Senator from North Carolina.

Mr. CASE. Madam President, will the Senator from Illinois yield to me?

Mr. DOUGLAS. I am glad to yield to the Senator from New Jersey.

Mr. CASE. As a cosponsor of the resolution and as a supporter of the Senator from Illinois, I wish to express for both of us the great satisfaction we are deriving this afternoon from the accession of support from certain quarters in the Senate that have not been so active up to now. I think it is fine.

Mr. DOUGLAS. I thank the Senator from New Jersey.

THE FULL FINANCIAL DISCLOSURE BY DR. DUROVIC

Madam President, we also had the full cooperation of Drs. Durovic and Ivy. Dr. Durovic made available to the public a full statement of his income and a copy of his income tax statement for 1962, together with the statement of the Internal Revenue Service that they examined his tax liability for 1960 and approved his return.

The full details are given in exhibit 12 of the Robinson committee report, which should be studied in detail. Dr. Durovic has been charged with fraud by the American Medical Association and by the Food and Drug Administration. The exhibit includes a copy of a letter from the Bank of London, which shows that in May 1949, when he came to this country, he had a balance of $190,000. So he did not come to this country impoverished. We include a copy of his individual income tax return for 1962. It shows heavy indebtedness as of that year. We also include a letter from the Treasury Department, showing that the income reported for 1960 was correct. We also include a letter from Canada, as of 1954, authorizing the sale of this drug in Canada. These statements are appended to the Robinson committee report as exhibit 12.

Madam President, we also have, and present for the first time, photostatic copies of letters which the officers of two big drug companies, Abbott Laboratories and Eli Lilly, wrote to Dr. Durovic in 1951 confirming their proposals to purchase and market Krebiozen. The letter signed by the president of Abbott Laboratories proposed to pay Dr. Durovic $1.6 million for 200,000 ampules of Krebiozen conditioned on a "mutually satisfactory" contract "in respect to the future manufacture of this product and other pertinent terms."

Madam President, the letter from the Lilly Research Laboratories offers to pay Dr. Durovic huge sums for his formula and patent totaling probably at least $2 million.

But, Madam President, Dr. Durovic refused these offers, and the Robinson committee report, on page 11, column 2, refers to Dr. Durovic's statement that he refused to make such a sale because he could not get the companies to agree to set a ceiling on the prices charged.

He had an opportunity to become a wealthy man if he would permit the drug companies to fix a charge of $30 to $40 per ampule for Krebiozen. But he rejected that offer, on the ground that this was an unfair and improper charge to levy upon the general public.

THE EVIDENCE IS NOW BEFORE THE PUBLIC—MAY THE TRUTH PREVAIL

Madam President, I now present the final report which the group chaired by Dr. Robinson has made to me. It does not go into the question of whether Krebiozen is a cure for cancer, but merely whether it is worthy of a test and, specifically, whether the refusals of the Food and Drug Administration and the National Cancer Institute to conduct such a test were proper or whether they were grossly biased.

I ask my colleagues and the readers of the CONGRESSIONAL RECORD to go over this report with care and in minute detail and to come to their own conclusions.

The authors of the report believe that the record shows that the Food and Drug Administration has been grievously biased, and that the claimed identity between Krebiozen and creatine is definitely mistaken. They also point out that the Cancer Institute imposed unduly harsh and severe standards of judgment upon Krebiozen which they do not apparently impose upon most, if any, of the other substances which they test, and that the evidence in favor of Krebiozen is far stronger than the Cancer Institute will admit.

Madam President, the alleged identity was based upon a spectrographic analysis of the sample of Krebiozen submitted to the Food and Drug Administration and of the common substance creatine. Figure 1 of the graphs which are displayed in the Senate and which Senators have on their desks, is an enlargement of a photograph which, at my request, was sent to me by the Food and Drug Administration. It shows the spectrograms of creatine—shown above—and Krebiozen—shown below.

Spectrograms are made by exposing a substance to light of different frequencies, and recording how much of the light at each frequency is absorbed by the substance. Absorption causes the line in the spectrogram to drop down.

The more completely the light is absorbed, the more the figure approaches zero. When the light is not all absorbed, the figure is 100. The frequency of the light waves is shown on the horizontal scale.

It will be noted that there is a general similarity between Krebiozen and creatine, and that this led the Food and Drug Administration to pronounce the two identical, in the press release it issued That statement is reproduced in exhibit 14 of the Robinson committee report.

The Robinson committee superimposed the Krebiozen graph upon the creatine graph, and photographs were made. If the two substances were identical, the two charts would completely coincide. It will be noted that there is substantial identity from a wavelength of 2¾ microns to perhaps 7 microns, but that from 7 microns to 13 microns there are significant differences, and that the Krebiozen line is distinctly below the creatine line. If the Food and Drug Administration had simply superimposed one graph squarely upon the other, the differences would have shown up.

The similarity between the two graphs in certain areas is due to the presence of some creatine in the Krebiozen, but the point which the spectrographic analysis establishes is that there is another substance besides creatine in Krebiozen which can be called Krebiozen. Krebiozen is not the same as creatine.

Now the experts go even further. Dr. Anderson made a mathematical comparison by which he constructs a differential spectrogram, taking the differences from point to point in the spectrographic analysis of Krebiozen and the spectrographic analysis of creatine. This is shown in figure 4.

Suffice it to say that if creatine and Krebiozen were the same, the line of the

graph in figure 4 would be flat. But it is not. Therefore, Krebiozen and creatine are not the same.

What did the Food and Drug Administration do? What it did is shown in figure 3. It made transparent films of the Krebiozen and creatine spectrograms and laid them on top of each other and photographed them. Figure 3 is an enlargement of the Food and Drug Administration photograph which we have enlarged from a small photograph which the Food and Drug Administration gave us.

This was widely published in Life magazine to show that Krebiozen was the same as creatine. But the Food and Drug Administration did not squarely overlay the two graphs. It dropped one graph 7½ percent below the other. This obliterates the area of maximum difference between the two graphs. The lines now seem intertwined, as if oscillating around an identical line—the same for both substances. A layman would naturally assume an identity. I do not say this was done intentionally. I do say that the result was deceptive, in that it would serve to convince a layman, who did not know spectographic analysis of the identity of the two substances.

The Krebiozen submitted to the Food and Drug Administration is known as Krebiozen-1, but three other batches of Krebiozen have been developed. There was the original Krebiozen, which we will call Krebiozen-zero, produced in the Argentine and brought into this country. A spectrographic analysis of it is different from that for Krebiozen-1. Then there is Krebiozen-2 and Krebiozen-3, which we will call K–2 and K–3. K–2 and K–3 are more recently developed, and have had much more of the *creatine taken* out. The differences between K–2 and K–3 on the one hand, and creatine on the other, are quite marked.

We have not had time to produce photographic enlargements of the comparative spectrographic analyses of the latter two substances, but the originals are available in my office. We also have chemical formulas and statements from Dr. Anderson and Mr. Clark that show that whereas K–1 was creatine plus from 2 to 8 percent of another substance, which we will call Krebiozen, in the case of K–2, over 40 percent of the sample was Krebiozen, differing from creatine; and that in the case of K–3, 79.4 percent was Krebiozen, differing from creatine.

As the analysis has proceeded, it has been possible to separate out more and more of the creatine and obtain a more and more pure Krebiozen substance. But even if the substance X, which we will call Krebiozen, which is in K–1 over and above the creatine, is as small as 2.8 percent, or an average of 5 percent, that difference is extremely significant from a biological point of view.

In one of the appendices, and in part II of the report, the committee calls attention to the way in which small differences can have the most profound biological effects.

For example, the amount of fluoride added to community drinking water, to stop the decay of teeth, is less than 1 part in 1 million—0.7 part per million. The proportion of Krebiozen in the FDA sample was from 30,000 to 80,000 times this amount. There is, of course, very much more in K–2 and K–3.

Adrenalin has an easily detectable biological effect in a blood concentration of 1 part in 1.4 billion. The proportion of Krebiozen in the FDA samples was from 42 to 112 million times this amount.

Biotin, a B vitamin, is biologically active in a concentration of 1 part in 10 billion. The proportion of Krebiozen in the FDA sample was from 300 to 800 million times this amount.

The concentration of free thyroid hormone in the normal blood is 1 part per 10,000 million parts of blood plasma. These minute amounts are physiologically active and necessary for health. The proportion of Krebiozen in the FDA sample was from 300 to 800 million times this amount.

Fever in man can be produced by injecting one ten-millionth of a gram of an extract from the bacterium, E. Coli.

The lethal dose of purified botulinum toxin in man is 0.06 millionth of a gram.

I could multiply these tests. I wish to say, in addition, that the Food and Drug Administration did not conduct any bioassay tests. They have not made a single biological test.

The test for the effectiveness of biological substances is to use them on animals and/or man and to determine their biological effect.

Dozens of the most common biological substances have been used for long periods of time in medical treatment despite either their lack of uniformity or the fact that their full chemical composition is unknown—such as female hormones and the hormones of the pituitary.

Neither the Food and Drug Administration nor the Cancer Institute made any biological test of any kind on Krebiozen. But Dr. Andrew C. Ivy, the chief scientific sponsor of the drug, routinely uses the bioassay to determine both the potency of the samples of the drug Krebiozen and its biological effects.

In other words, he uses the method of ultimate importance when dealing with a biological substance. He measures the potency of the sample by testing its effects on human breast tumors and by measuring the effects.

I point out also that creatine and Krebiozen differ in color. I have seen these tests. Creatine is pure white. Krebiozen has a tan color. The chemical composition of the two is different, as Mr. Clark shows. The molecular weights of the two substances differ.

THE CANCER INSTITUTE IMPOSED UNDULY HARSH AND SEVERE TESTS

I point out further that the Cancer Institute imposed unduly harsh and severe standards of judgment upon Krebiozen which apparently they do not impose upon most, if any, of the other substances which they test, and that the evidence in favor of Krebiozen is far stronger than the Cancer Institute will admit.

I recommend that this part of the report of the Robinson committee, part III, be studied with great care.

The committee of 24 proceeded in secret. It did not interview a single patient or a single doctor who had treated a patient. It refused to Dr. Ivy the right to appear, although I requested that they grant him the right to appear.

Dr. Ivy and Dr. Durovic were not given a detailed evaluation of the case records. The National Cancer Institute and the Department of Health, Education, and Welfare refused to make the case records available for independent analysis and review, despite the fact that on October 22, 1963, I wrote them making that request.

The National Cancer Institute set extremely harsh and severe standards. I remind this body that the National Cancer Institute tests thousands of substances annually as potential anticancer agents. We understand they test as many as 24,000 a year on animals and 100 a year on humans.

The National Cancer Institute, in the case of the Krebiozen patients, determined only whether the NCI would test the drug, and set extremely harsh and severe standards as to whether it was a cure.

First, the Institute threw out 216 cases for reasons which have not been explained in adequate detail.

Second, of the remaining cases the Institute threw out all cases in which there was a decrease in pain or a withdrawal of narcotics.

Third, it threw out all cases in which the tumor was arrested.

Fourth, it threw out all cases in which the tumor decreased in size from 1 to 50 percent.

Finally, it counted only those cases of the 288 in which the tumor had decreased in size by 50 percent or more. They found 15 of these.

Then, on a variety of grounds, many of which were questionable, as will be shown, they threw out 13 of these 15.

Finally they arrived at two cases in which there was a regression of more than 50 percent, for which they could find no grounds for any adverse judgments. They ascribed these to spontaneous or natural cures or regressions.

THE EVERSON-COLE STUDY

A classic study of spontaneous regression of cancer was reported by Dr. Everson and Dr. Cole in 1956. At that time they found only 47 cases with adequate documentation to accept as probable examples of spontaneous regression out of approximately 4½ million cases, from 1900 to 1956. That is a ratio of about 1 case for every 100,000.

Newspaper reports indicate that they have now increased the number to 130 out of a proportionately larger total number of cancer cases.

I ask Senators to note how Drs. Everson and Cole define "spontaneous regression." It is the "partial"—and I emphasize the word "partial"—"or complete disappearance of a malignant tumor in the absence of all treatment, or in the presence of therapy which is considered inadequate to exert a significant influence on neoplastic disease."

They went on to say that they did not imply that spontaneous regression need progress to the point of complete disappearance of a tumor, or that spontaneous regression is synonymous with a cure.

They stated that, in a few cases, they counted it as spontaneous regression when the tumor disappeared in one area but flourished unchecked in other areas or reappeared later.

They found only 47 cases from 1900 to 1956, and have found 130 to date; which is a ratio of about 1 to 100,000 or possibly 1 to not more than 80,000.

I ask Senators to note that the Everson & Cole standards include "partial" regression, not merely those of 50 percent or more. They include cases in which there was other therapy which was considered inadequate to influence the disease. In some cases the NCI threw out a Krebiozen case when there was other therapy which was inadequate.

Everson & Cole included cases in which the cancer flourished in other areas of the body. The NCI threw out, of the 15 cases with a 50-percent regression or more, the cases in which the cancer flourished elsewhere. They may have thrown out many more which do not appear in the final 15 cases.

Everson & Cole included cases in which the cancer reappeared, but the NCI threw out, of the 15 cases with a 50-percent or greater regression, some cases in which cancer later appeared.

Thus the NCI set up standards which were far more severe than the standards of Everson & Cole, yet on that basis they found 15 cases, but threw out 13, many of which, by the standards of Everson & Cole, should have been included.

Mr. PROXMIRE. Madam President, will the Senator yield?

Mr. DOUGLAS. I am glad to yield.

Mr. PROXMIRE. Does the Senator state that the Everson & Cole statistics suggest that in 1 case out of 80,000 or 1 case out of 100,000 there was spontaneous regression?

Mr. DOUGLAS. Yes. There were only 47 cases from 1900 to 1956, out of nearly 5 million cases, and only 130 cases up to date, with a much larger total number of cases.

Mr. PROXMIRE. How many cases were subjected to Krebiozen?

Mr. DOUGLAS. There were records of the treatment of approximately 5,000. Of those, Dr. Ivy and Dr. Durovic submitted 504 cases—not that they were the best cases, but because they believed they were typical cases.

Mr. PROXMIRE. Of the 504 there were 15 which showed regression?

Mr. DOUGLAS. At least 15.

Mr. PROXMIRE. At least 15 of the 504 cases?

Mr. DOUGLAS. Yes. It is difficult to identify the cases allegedly studied by the NCI. The NCI placed its own numbers on the cases and refers only to its numbers. There may have been as many as 33. Dr. Robinson has been able to identify 9 in addition to the 15. There were also another nine which were also cases of substantial regression.

Mr. PROXMIRE. In part III of the Senator's presentation, on pages 6 and 7, is a list of valid cases ignored, including case after case in which the cancer not only regressed but diminished very greatly in size.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. The metastasis disappeared in most cases?

Mr. DOUGLAS. Yes.

Mr. PROXMIRE. At any rate, the spreading of the cancer elsewhere disappeared in case after case, and the tumor itself declined.

SOME APPARENT CASES WHERE KREBIOZEN WAS MARKEDLY BENEFICIAL

Mr. DOUGLAS. The first case is that of a Mrs. J. F. She had a breast cancer which was 5 by 7 centimeters, an area of 35 square centimeters. This was decreased to 2 by 2 centimeters, or 4 square centimeters.

Mrs. H. W. had a breast cancer of large size, 12 by 11 centimeters, or 132 square centimeters. That was decreased to 3.5 by 2.5 centimeters, which would be 8.75 square centimeters.

Mr. PROXMIRE. These are declines of 70 or 80 or 90 percent?

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. These were rejected? These were not included among the 15?

Mr. DOUGLAS. That is correct.

(At this point Mr. McGOVERN took the chair as Presiding Officer.)

Mr. PROXMIRE. So even if one takes what seems to be an unfair selection on the part of NCI, the statistics are still impressive, because there still are 15 cases in which there was some regression. Even if one considers the two in which there allegedly was spontaneous regression, it is a far better record than the record of virtually no spontaneous regression in the history studied by NCI generally; is that not correct?

Mr. DOUGLAS. The Senator is completely correct.

Also, in 1951 there were 10 cases in which apparently there had been great improvement. Officials of the American Medical Association, nevertheless, listed these patients as among a group about to die in their status report on Krebiozen in 1951.

But 10 of those were still living and they were presented at the Illinois legislative hearings on Krebiozen in 1954.

In one of the exhibits we submit, showing that seven of them are still living after 12 years, we give their names and addresses. If necessary, they will be produced. One of them is now living in Norway, but will come here, if necessary.

Mr. PROXMIRE. I call attention to three examples which seem to be particularly convincing.

Mrs. I. P., age 40, breast cancer 16 by 11 centimeters, decreased to zero; axillary node 2 by 1 centimeters, disappeared; pain disappeared; regained use of arm and went back to work as telephone operator.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. I read another example:

Mrs. M. Z., age 67, breast cancer metastasis on chest wall 2 by 3 centimeters decreased to less than one-third. Came back when Krebiozen was stopped and again decreased 50 percent when Krebiozen again given. Doctor's comment: "Amazing."

Another example:

Mrs. I. K., age 51, breast cancer metastases to neck glands completely disappeared. New metastasis appeared after Krebiozen stopped 1 month, and with more Krebiozen, this also disappeared.

These cases were all thrown out, as I understand. Is that correct?

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. They were among those that were ignored.

Mr. DOUGLAS. Yes.

Mr. PROXMIRE. Those examples are amazing to me. The Senator from Illinois is not a doctor or a physiologist. Neither am I; but both of us can understand statistics and read the English language. The Senator from Illinois is particularly qualified, as an economist, to understand statistical treatment and make a determination as to what are fair statistics and what are unfair. This is a most impressive situation, which certainly should be given every kind of scrutiny by competent medical authorities.

Mr. DOUGLAS. I thank the Senator; but the whole credit goes to the voluntary committee, headed by Dr. Robinson, and including Dr. Anderson, Mr. Clark, and Mr. Shuman.

They have prepared their report in three sections, running to 25 mimeographed pages, which I have not yet introduced into the RECORD. I have merely summarized some of the high spots. They submit also exhibits running to over 50 mimeographed pages.

So we have laid a factual basis for every point, if we can only persuade people to read the evidence.

One of the extraordinary circumstances goes back to the 1951 cases, 7 of whom are still living after 12 years. Many of those who died were advanced in years and could well have died because of age.

Let me say for the sake of the record that when the AMA issued its "status report" on 100 proved cancer cases treated with Krebiozen, which has served ever since as the backbone of all opposition to this preparation, 73 of the 100 cases were so close to death when the Krebiozen treatment was begun that 40 received only 2 injections, and the other 33 received only 4 injections of Krebiozen.

The report of the AMA also omitted all mention of objective cancer regression recorded in the medical records of 18 of these patients; and, on the basis of its survey, covering only a few weeks to a few months, the report characterized all of the 100 patients as dead or dying.

However, of the 23 remaining patients, 10 were alive and well, and appeared in person before the Illinois Legislative Commission on Krebiozen in 1954, and 7 of them are still alive and well today, in December 1963, as follows:

Alive in 1954: Mrs. Julian Howard, Mrs. Cecile Luebkemann, Mrs. Catherine Firnsthal, Irene O. Kibby, A. M. Howard, Eleanor Gahan, Helen Arndt, Magda Johansen, Evelyn Vogel, and Irene R. Pietrowicz.

Alive in December 1963: Mrs. Julian Howard, 2429 West Berenice Street, Chicago; Mrs. Cecile Luebkemann, 6439

Newgaard Street, Chicago; Irene O. Kibby, 2021 West 73d Court, Elmwood Park, Ill.; A. M. Howard, 9410 North Monticello Street, Skokie, Ill.; Eleanor Gahan, 1619 Garfield Boulevard, Chicago; and Magda Johansen, 3810 North Troy Street, Chicago, now in Norway, who, I understand, is willing to fly here to testify.

Evelyn Vogel, 1820 West Nelson Street, Chicago.

These are people who the AMA in 1951 said were either dead or dying.

Mr. PROXMIRE. So there is no question in these cases that these people did have cancer?

Mr. DOUGLAS. That is true.

Mr. PROXMIRE. There is no question that the chances of spontaneous regression are virtually nil, and there is no question that these people are still alive?

Mr. DOUGLAS. That is true.

Mr. PROXMIRE. There is no question that the only treatment they had was with Krebiozen?

Mr. DOUGLAS. The majority of them had nothing but Krebiozen. Two had inadequate surgery followed by recurrence of the malignancy which was then treated with Krebiozen.

Mr. PROXMIRE. But Krebiozen was the principal treatment and the principal reliance of the doctors?

Mr. DOUGLAS. That is correct.

The National Cancer Institute explicitly imposed standards stricter than Everson and Cole standards, and indeed, in addition, more severe standards than the general criteria which they said they were going to impose and follow.

On the 28th of October 1963, I addressed a letter to Dr. Endicott, head of the National Cancer Institute, about the records of the 504 patients.

I asked the following questions:

Of the 288 cases which your group qualified as fulfilling the necessary conditions for evaluation, how many showed a decrease in pain and/or the withdrawal of narcotics?

In how many was the growth of the tumor arrested?

In how many was there regression of the tumor less than 50 percent? i.e., from 25 to 50 percent, etc.

Then I asked the following questions:

How many drugs or alleged anticancer substances or agents is the National Cancer Institute testing this year?

How many of these are being tested on humans this year?

I understand that 24,000 alleged anticancer chemical preparations a year are being tested on animals and 100 on human beings, but I wanted this in writing.

Then I asked the following question:

In how many of these agents did you determine that there was more than a 50-percent decrease in tumors in a large number of cases prior to agreeing to test?

In other words, did the National Cancer Institute insist on the same standards for other substances as they insisted on for Krebiozen?

I further asked:

How much is to be spent this year on these drugs, agents, tests, and scientific evaluations?

I understand it is $44 million, but I have not yet received a written reply. I also asked Dr. Endicott:

In addition, would you provide me with exactly the same information for prior years—that is, how many drugs have you tested, how many have been tested on humans, what has been the cost, and how many met the prior criteria of a 50-percent regression?

Would you provide, in addition to the numbers, the specific names of the substances in each of these cases?

I understand they admit that many highly toxic substances have been approved for both testing and treatment of cancer, and in some cases the tests have been accompanied by the death of the patient. Krebiozen is admittedly nontoxic. One of the toxic substances is 5–F–U, in which the American Cancer Institute had a one-half interest, and now has a one-quarter interest, in the profits that may be made.

I also asked Dr. Endicott:

Would you provide for me the amount of funds that either the NCI or the NIH have provided to the various institutions represented by members of the committee since the NCI has been making grants of funds?

We shall submit later tentative records of some of the grants we have been able to find. I think it will be found that all of the 24 members of the committee were either receiving research grants, or the departments of the universities, with which they were connected, were, or else they were employees of the National Cancer Institute or the Veterans' Administration. There is a real question therefore as to how independent their judgments would be.

I stated in my letter:

I note that you base your final opinion at least twice in part on the findings of the Food and Drug Administration that Krebiozen is creatine. In view of the previous NCI finding of 21 percent carbon, which is wholly incompatible with creatine, do you concur in this finding? Do you believe that there are other substances or "impurities" in the Krebiozen submitted in such quantities that the substance could not be as conclusively identified as done by the FDA when it said it was creatine?

Is it not true that with respect to biological effects and in the case of antibodies, amounts in the quantity of one part in thousands, or millions, or billions can and do have significant biological effects, and also that those are more often than not undetectable by spectrographic, chemical, and the other forms of analysis used by the Food and Drug Administration in their analysis of krebiozen.

I would like very much to have very definite answers to this last set of questions.

With best wishes.

Faithfully yours,

PAUL H. DOUGLAS.

That letter was sent on October 28. It is now December 5. Approximately 40 days have passed since then. Six weeks have passed, and no reply has been received from the National Institutes of Health or from the National Cancer Institute.

LET US SEARCH FOR THE TRUTH

Mr. President, I ask that the scientific community study all this material and come to an independent judgment not based on gossip, hearsay, or the pronouncements of administrative and medical bureaucrats.

Who should be afraid of the truth? How can the truth be established *except* by tests?

Truth should be established in the laboratory and in the hospital; that is where I want to put the study.

Should the bureaucrats be privileged to shut off a fair test?

Are civil servants always right?

Are the leaders of the American Medical Association always fairminded?

Let us remember the great medical discoveries of the past, how the medical pundits are frequently wrong, and how they hounded many of the great benefactors of mankind, sometimes to their very death.

I spent a part of the summer of 1923 with the great surgeon, Dr. W. W. Keen. I talked with him many nights. He told me how he had abandoned surgery as the result of his year's work with the Union Army during the Civil War, because he felt surgery was nothing more than butchery; and how he then read in medical journals, when he was a farm laborer in New Jersey, about a crazy Quaker doctor named Joseph Lister, who was operating in Scotland, on the theory that bacteria developed in wounds and that the thing to do was to kill the bacteria, and that then the natural health of the organism would bring about recovery.

Lister was persecuted by the British Medical Association. He was threatened with having his license revoked. However, the stories given out by Lister's detractors showed that Lister's theory checked with what Dr. Keen had observed in the tragic year of the Civil War, from March 1864 to April 1865, when he was a surgeon with Grant, and had seen many men die from the suppuration of wounds after he had operated.

He told me that in those days he would hold the sutures in his teeth, and sharpen his knife on the sole of his boot, after he had raised up his boot from the muddy ground. That was the accepted practice at that time.

He said that he decided to go to see this crazy man in Scotland, because he thought he might be right. He went to Scotland and studied under Lister. Lister had his hospital built over or near the public Potter's Field which was crawling with vermin. Yet in Lister's hospital virtually no one died as a result of operations because Lister had developed a carbolic acid wash and disinfectant. Dr. Keen came back from Scotland and started to practice. He was referred to as a crazy Listerite. No one would engage him. He was denied an opportunity to practice in every hospital in Philadelphia. He told me that he finally got down to one suit of clothes and to one meal a day. He said that when he walked along the street everyone would cross over to the other side so they would not have to greet him.

Finally there was one openminded surgeon in the great Pennsylvania General

Hospital. He said, "Let us give this young fellow a chance." So they let him operate.

Keen disinfected the wounds and his knife with carbolic acid. That was pretty strong medicine, but it killed the bacteria. And none of his patients died from infection as a result of his surgery.

Then the hospital set aside one ward in which he was permitted to operate. All around him people were dying in the best hospitals in the United States, but no one died from infection under Keen. He had great technical skill, because the year he had spent operating on Union soldiers had given him great skill and virtuosity. He used the Lister method of disinfecting the wounds. Then he was made chief surgeon of the hospital. He directed the surgery in all the cases in that great hospital, and virtually no one died from infection.

He began to chronicle the results in statistical articles. He was threatened with expulsion from the Pennsylvania Medical Society. However, he hung on. Gradually the statistical record was so overwhelming that the doctors from around Philadelphia came to study under him. Then doctors from all parts of the country began to study under him.

This was in the 1890's. In general, even then, most hospitals were nothing but charnel houses.

Finally he was accepted as the greatest surgeon in the United States.

The old man told me—and he started to cry—about his experiences. He said, "I nearly went under. I was nearly shut off."

Lister had gone through the same experience in England. However, the British moved more rapidly. They made him a knight. He became Sir Joseph Lister. Then he was made Lord Lister.

The father of the great Senator from Alabama, LISTER HILL, studied under Joseph Lister and he was the Senator's godfather. Lister was then called from Scotland to England. He was established as a great surgeon of England.

Let me make it clear that we should not conclude that innovators are correct merely because they are persecuted. Persecution does not make a man correct. But we do say that some who are correct are nevertheless persecuted because they are innovators.

I will go further, and say that the leaders of the American Medical Association have a vested interest in discrediting Krebiozen, and that this goes back at least a dozen years. One side of the story, which narrates the alleged reasons for their opposition, has been published in Herbert Bailey's "A Matter of Life and Death." I do not know whether all that Mr. Bailey says is accurate, but if it is untrue, it is clearly libelous. Yet so far as I know, no suit for libel has ever been brought.

Some of Mr. Bailey's statements are corroborated by the documents which I now publish for the first time, such as the big offers for the patent on Krebiozen, made by Eli Lilly and by Abbott Laboratories, offering between $1 million and $2 million. This information is indeed corroborated by these documents and photostatic copies of the original signed letters are in my office.

As to the AMA, I do not make the statements; we merely reproduce the statements made by no less than five persons. The then treasurer of the American Medical Association is alleged to have said that unless control over Krebiozen were given to two gentlemen, one with the same name as the AMA treasurer, but not apparently related, he would see to it that the AMA destroyed the reputation of Krebiozen. This statement may not be true. But it was corroborated under oath by five persons before an Illinois legislative committee. They are referred to by Mr. Bailey.

I spoke yesterday with a member of that Commission and asked him if he remembered that testimony. He said he did. Furthermore, he said that the testimony was given under oath.

A FINAL APPEAL

I appeal to Senators and to the scientific and general public for an honest and unbiased study of the facts.

Once again, I repeat, I am not claiming, nor have I ever claimed, that Krebiozen is a cure for cancer. I am merely stating that on the basis of the Robinson-Anderson-Clark-Shuman report, it is worthy of an honest and fair test. It is a terrible thing to be compelled to say, because of the facts revealed in this report, that our confidence in the ability or readiness of the appropriate Government agencies to make such a test is now open to very grave doubt. They are indeed on trial.

We remember that during the Dreyfus case, Emile Zola published his article entitled "J'Accuse," in which he accused certain members of the French General Staff with forging documents attributed to Dreyfus. I shall not imitate Zola. I am not making any charges; I am presenting evidence. Specifically, I make five requests:

First. That an appropriate Senate committee, probably the Subcommittee on Reorganization and Internal Organization of the Committee on Government Operations, conduct an open investigation concerning the nature and accuracy of the publicly issued statements by the Food and Drug Administration and the Cancer Institute in the matter of Krebiozen. I reprint those statements as appendices of my statement.

Second. That an independent scientific investigation be made of Krebiozen and creatine to determine whether they are, as the Food and Drug Administration charges, identical. Universities could conduct such a test.

Third. That the case records of the 504 cases submitted by Dr. Ivy and Dr. Durovic be reexamined by neutral scientists. I would regard Dr. Bing, a scientific adviser to the late President, as competent to make such a test. I would regard Dr. Lasagna, of Johns Hopkins, a great and fearless doctor, one who is not afraid to speak his mind, and who has many doubts about Krebiozen, as competent to make such a test. Miss Elinor Langer, one of the scientists attached to the outstanding magazine Science would be competent to serve on such a committee.

It is a terrible thing that we cannot really trust either the Food and Drug Administration or the National Cancer Institute. We need, therefore, an independent scientific investigation.

Fourth. That the Food and Drug Administration retract the false statements it has made about Krebiozen and Drs. Ivy and Durovic and apologize to them for the reflections they have made upon their characters.

Fifth. That the Department of Health, Education, and Welfare reply to my letter of October 28, 1963, which asked searching questions about the criteria they applied in appraising the Krebiozen cases as compared to those followed in the other substances which they are testing, and which up to the date of delivery of this speech they have ignored. My letter is printed in the body of the report of the Robinson committee which follows.

Let me make it clear that my inquiries are not intended to head off the threatened criminal prosecution of Drs. Durovic and Ivy. If the Food and Drug Administration thinks it has a case, by all means let it proceed. Let the Food and Drug Administration hail Dr. Ivy and Dr. Durovic into court and prosecute them for fraud, as it has threatened to do. Drs. Ivy and Durovic tell me they would welcome such a trial, so that they can meet their detractors head on in open court. Let the American Medical Association also appear in public before the able and honorable Attorney General of Illinois, William G. Clark, and give its alleged proofs against Krebiozen. To date, I have not heard that the American Medical Association has done so.

Mr. President, I ask unanimous consent that the report made to me by the Robinson Committee, with its attendant exhibits, be printed as an appendix to my remarks.

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

Mr. DOUGLAS. Mr. President, I also ask unanimous consent that this material be printed in ordinary type, so that it may be more easily read by the great public, both scientific and lay, in whose ultimate fairness I must now rest the case.

The PRESIDING OFFICER. Consistent with the authority of the Senate to grant the request, it is so ordered.

REPORT ON THE FOOD AND DRUG ADMINISTRATION AND NATIONAL CANCER INSTITUTE ANNOUNCEMENTS OF SEPTEMBER 7 AND OCTOBER 16, 1963, WITH RESPECT TO KREBIOZEN

LETTER OF TRANSMITTAL

DECEMBER 4, 1963.

Senator PAUL H. DOUGLAS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOUGLAS: You and other Members of Congress have been seeking a "fair test" for Krebiozen over a considerable period of time. When the Food and Drug Administration announced on

September 7, 1963, that Krebiozen was creatine, you asked us to bring together as much of the available evidence bearing on this issue as possible in order that you could make some judgment based on the facts about this matter. Subsequently, the National Cancer Institute made its announcement about the cases on October 16, 1963, and we were asked to include that matter as well in our final report to you.

We have brought together a great amount of original material as well as material from the scientific literature about these matters. We obtained the original reports of the FDA scientists, the reports of two independent laboratories and the results of a third. We have seen the records of the scientific, chemical, and physical evaluation of Krebiozen extending back for a decade. We have had before us the Krebiozen Foundation records of the 504 cases. We have gone to the classical studies on natural regression in cancer and have searched out independent scientists for their judgment concerning how accurate and how significant were the tests done by the FDA.

In matters relating to the spectrographic and chemical analyses we have gone directly to the scientists involved and have not worked through third parties.

While we bear responsibility for the report, those who have aided us, of course, bear responsibility only for their particular contribution.

With best wishes.

Sincerely,

MILES H. ROBINSON, M.D.,
Chairman, Committee To Appraise FDA and NCI Conclusions on Krebiozen.

HOWARD E. SHUMAN,
Secretary and Editor, Administrative Assistant to Senator Paul H. Douglas.

LIST OF EXHIBITS

1. Analysis by Dr. Anderson of FDA photograph of spectrograms published in Life magazine.
2. Purpose of difference spectrum.
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4. Calculation of the difference spectrum.
5. Anderson analyses of FDA spectra.
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9. Excerpt from letter from HEW denying to Dr. Ivy right to appear before medical committee, September 10, 1963.
10. Letter from HEW refusing access to case records, October 30, 1963.
11. Statement of Dr. Andrew C. Ivy on theory of Krebiozen.
12. Documents on income of Dr. Durovic.
13. Offers of drug companies to buy Krebiozen rights.
14. Press Releases of Food and Drug Administration and National Cancer Institute, September 7, 1963, and October 16, 1963.
15. Behind the campaign against Krebiozen.

DEFINITIONS OF KREBIOZEN SAMPLES AND SPECTROGRAMS AND FIGURES

K–0: First Krebiozen, made in Argentina—so designated in this report for purposes of clarification.

K–1 or K1 or KI: Krebiozen submitted by Dr. Durovic to the FDA on July 12, 1963, or spectrogram made by FDA July 12, 1963, of Krebiozen.

K–2 or SD–84: Later Krebiozen sample. Also, spectrogram of same by Anderson, November 7, 1962.

K–3 or SD–201(B): Spectrogram of still later Krebiozen from which bulk of creatine has been removed.

A–1: Sample of Krebiozen K–1 given to NCI, September 1961. Chemical analysis by Clark on September 8, 1961.

Nos. 5084, 5089: Spectrograms by Anderson of Krebiozen K–1 submitted by sponsors along with sample K–1.

No. 80: FDA spectrogram of creatine hydrate. Used to compare with K–1.

3588 (CIP 1 and 2): Spectrogram of original Krebiozen K–0 material, isolated from ampules by the Clark Microanalytical Laboratory, November 22, 1958. CIP 1 and 2 means Clark Isolation Product 1 and 2.

Figure 1: Spectrograms made by FDA, No. 80 of creatine hydrate, and No. K–1 of Krebiozen.

Figure 2: The same, squarely superimposed.

Figure 3: The same, superimposed by FDA.

Figure 4: Differential spectrum of same, calculated by Dr. Anderson.

GENERAL FINDINGS

This report and its exhibits will show that:

First. The conclusion of the Food and Drug Administration that Krebiozen is creatine is demonstrably false.

Second. The presence of Krebiozen in the sample which the Food and Drug Administration labeled creatine was of the utmost chemical and medical significance. It was present in a concentration from 30,000 to 80,000 times greater than the fluoride added to community drinking water to stop the decay of teeth, and from 42 to 112 million times greater than the concentration of adrenaline in the blood, both of which concentrations can easily be detected by appropriate tests.

Third. The conclusion of the National Cancer Institute that the drug was an ineffective anticancer agent (Exhibit 14) was arrived at by judging the cases by harsh standards, and in many cases by ignoring cases which qualified even under these harsh standards. The standards the NCI established merely to determine whether it was to test the drug were more severe than the standards applied in the scientific cancer literature to determine natural regressions of cancer; and they were ones which, according to the verbal statement of the Director of the NCI to one of us (HES), have seldom been applied to any of the other 24,000 or so substances tested routinely on animals or the 100 or so substances tested on humans each year.

PART I

WHAT IS KREBIOZEN?

The opponents of Krebiozen have, over the years, charged that it was a "secret" preparation and that its theory and production methods were unknown. This is not true. Its theory has been expounded widely by the producers and sponsors ever since the drug was first used. In 1956 the general production method was published, and in 1961 it was filed with the FDA in the fullest detail.

Furthermore, the sponsors time and again have offered both to the Federal Government and to the State government the opportunity to observe the actual production of the drug from beginning to end, but this has always been either refused or unacknowledged. In addition, the chief scientific sponsor of the drug has long had a standing offer to teach the production method to any qualified person who was willing to spend a few months in his laboratory. We understand that such has now been done.

In view of the numerous charges of secrecy made both officially and unofficially in the past by the AMA, NCI, and FDA, the theory of Krebiozen and its exact method of production are given here.

THEORY OF KREBIOZEN

There is a disease in horses called "lumpy jaw," which is a non-malignant but chronic and disabling tumor of the jaw caused by the ray fungus, Actinomyces bovis. In this tumor is found an extraordinary abundance of the special defensive cells of the body known as reticuloendothelial cells.

Since the horse more or less keeps the "lumpy jaw" tumor under control, Dr. Durovic reasoned that the horse's blood might contain antitumor substances active against cancer in man.

The basic idea of using animals as a source of anti-disease substances which can be injected into man to save his life has been the very foundation of our successful treatment of dread diseases such as tetanus, diphtheria, anthrax, rabies, and others.

Krebiozen is produced by injecting intravenously into horses a non-infectious dead extract of the ray fungus. This cannot infect the horse, but makes it temporarily sick, and stimulates it to produce substances antagonistic to the ray fungus. Such stimulation is a basic biological phenomenon. (See also exhibit 11.)

OTHER ANTITUMOR SUBSTANCES PRODUCED BY THE RAY FUNGI

Note that this same ray fungus is a normal inhabitant of the mouth and gastro-intestinal tract of healthy man and animals; and that when these ray fungi are grown in broth culture, some of the substances (antibiotics) they produce have anticancer activity in man:

"Perhaps the most exciting aspect of antibiotic research today (1963) has to do with the isolation and characterization of those antibiotics which exhibit antitumor activity. Research in this area has expanded rapidly in recent years both in this country and abroad * * * at least six of these agents exhibit interesting activity in human neoplasia (cancer). In addition, there are now in various stages of development more than twenty new products endowed with antitumor activity, which have resulted from the antibiotics programs supported by the Cancer Chemotherapy National

Service Center of the National Cancer Institute during the past several years. The structures of many of these agents, like their mechanisms of action, are unknown * * * those of most current interest in the chemotherapy of human neoplasia (cancer) are the actinomycins." (Exhibit 8.)

An analogy can be drawn between the anticancer antibiotics directly produced by the ray fungus, and Krebiozen. The antibiotics are the product of a reaction between the ray fungus and its culture broth; Krebiozen is the product of a reaction between a sterile extract of that ray fungus and the horse.

Of great importance is the fact that the ray fungus anticancer antibiotics are generally too toxic for continuous use in human cancer, whereas bringing the horse into the picture, as in the production of Krebiozen, gives a substance which has no toxicity for man.

Another extraordinary fact about the ray fungi is that another "waste" product of their growth in broth cultures is the famous antibiotic, streptomycin, which revolutionized the treatment of tuberculosis; and still another "waste" product is vitamin B_{12} which is life saving in pernicious anemia.

THE SCOPE OF THE THEORY

It is thus evident that the health and disease of man, including cancer, are intertwined with the activities of many other forms of life ranging from the most minute micro-organisms up to large animals like the horse. We live in this living milieu, all of it the product of evolutionary forces, and man is only beginning to understand his close yet changeable relationship with other living creatures which are sometimes his implacable enemies and sometimes his indispensable friends.

GREAT MEDICAL DISCOVERIES OFTEN IGNORED

Many important ideas have had great difficulty in penetrating the conservatism of orthodox medicine; for example, smallpox vaccination by Jenner, the cause and prevention of fatal childbed fever by Semmelweis and Oliver Wendell Holmes, antiseptic surgery by Lister, penicillin by Flemming, and others.

This difficulty still remains and it is not necessary to cite Krebiozen as an example, for just recently we find that the famous exfoliative test for uterine, lung, and other cancers, now an important lifesaving technique, "was ignored for several years after its discovery and almost abandoned by its developer, Dr. George Papanicolaou." (U.S. Public Health Service Publication No. 457, p. 10).

PRODUCTION AND EXTRACTION OF KREBIOZEN

In March 1961, the Krebiozen sponsors made a filing with the FDA which included the detailed data on the production and extraction process for Krebiozen, the reports of the chemical studies on the drug, and spectrograms of the samples submitted.

The extraction method begins with giving the horse four to eight injections of a sterile emulsion of Actinomyces bovis within a month. One month later, the horse is painlessly sacrificed, sodium citrate is added to its blood to prevent coagulation, and the red blood cells are separated by centrifugation.

The resultant serum is then extracted by an equal amount of ethyl ether or benzene. The latter is then separated and evaporated. The extraction of the serum is then repeated with petroleum ether. The fatty residues of both extractions are then combined and extracted with distilled water. The aqueous extract is then filtered through Berkefeldt filters of decreasing porosity until a clear filtrate is obtained. The filtrate is then evaporated and Krebiozen is obtained in the form of a tan or yellowish powder. The drug is then dissolved in light mineral oil, measured into glass ampules, and the filled ampules sterilized in an autoclave for 1 hour at 270° C.

The foregoing simple procedure was published in 1956 (Ivy, Pick, & Phillips, Henry Regnery Co.), except that the common substances, ether, benzene, and petroleum ether were designated as an organic solvent, and the common Berkefeldt filtration was described as "care to obtain a clear solution."

In the application for license in March 1961, the foregoing extraction procedure was complete including these details.

FDA AND NCI ANNOUNCEMENTS

On September 7, 1963 (Exhibit 14), the Food and Drug Administration announced that it had identified Krebiozen as creatine. It did not qualify or hedge its statement in any way.

In their release they refer to Krebiozen "as creatine." Again they say, "It was creatine." Further, they say that their tests "leave no doubt" as to the identity of the powder labeled Krebiozen.

In a letter from the Special Assistant to the Secretary of Health, Education, and Welfare to Dr. Durovic, dated September 26, 1963, it is stated that:

"The Food and Drug Administration has established that the material in the vial supplied by you and Dr. Ivy on July 12, 1963, and claimed by you to be Krebiozen, is, in fact, creatine."

The letter further states that "The results are conclusive" and asserts that the FDA analyses are "scientifically unimpeachable."

It also states that the identification was "conclusive" and that there was nothing "speculative" about it.

Finally, it says that "The full moral responsibility for the consequence (to the cancer patients) is yours."

In the ensuing FDA publicity great stress was laid on how a part-time summer student first found the "fingerprint" of Krebiozen from the "rogues' gallery" of spectrographic fingerprints of chemical substances. Co-workers are referred to as "detectives."

The FDA soon released photographs of the superimposed Krebiozen and creatine "fingerprints" supposedly proving that they were identical.

Meanwhile, the producers and sponsors of the drug were not consulted in any way nor offered any opportunity to present their abundance of scientific information and data. Without any notice the FDA "unloaded" on them at a hurriedly called press conference on September 7th after first leaking their conclusions to two friendly newspapers.

CRIMINAL CHARGES AND MILLION-DOLLAR OFFERS

At this press conference, the FDA also put its full weight behind innuendoes, widely circulated by the opponents of Krebiozen, that its sponsors have been profiteering on the distribution of the drug. On October 23, 1963, the AMA added a charge that the drug is also being illegally distributed in Canada.

Both these charges are answered by documents contained in Exhibit 12.

As reported in Medical World News for September 27, 1963, p. 49, Commissioner Larrick of the FDA stated that:

"Criminal charges are in preparation against the sponsors of Krebiozen * * * fines * * * and jail sentences are the penalty * * * With the facts that have been reported to us by our investigators, the normal course would be to recommend that these people be given an opportunity to show cause why they should not be prosecuted in Federal court."

As a matter of fact, the sponsors have consistently welcomed any action in the jurisdiction of a court, since they are confident of vindication under fair conditions where due process obtains.

In connection with innuendoes of fraud, it is significant that two of the most prominent drug companies in the United States have each offered approximately $2 million in cash and royalties for the "Exclusive right throughout the world, to manufacture and sell Krebiozen" (photostats, exhibit 13).

It may be assumed that these firms arrived at a careful judgment of the intrinsic worth and potential of Krebiozen before they made these extraordinary offers in writing.

Dr. Durovic refused these offers mainly because he understood that the companies planned to retail the drug at a price of $30–$40 per ampule instead of the $10 which he thought was right. (Illinois Legislative hearing, p. 1139).

FDA REJECTS FURTHER DATA FROM SPONSORS

After the FDA, without any warning, publicly condemned Krebiozen at its press conference of September 7, efforts by the producer and sponsors of the drug to present further scientific information to the FDA were arrogantly dismissed on the grounds that the FDA analyses were "scientifically unimpeachable."

In a letter dated September 26, 1963, from the Special Assistant to the Secretary of Health, Education, and Welfare, in reply to the sponsors' letter of September 11, 1963, the Department said that the chemical studies of the material Krebiozen made by two reputable independent laboratories which indicated Krebiozen was different from creatine, "would not affect the results of the FDA analyses, which are themselves scientifically unimpeachable." (p. 1).

When the sponsors stated that the interpretation by their chemists of the infrared spectrogram was different from that of the FDA chemists, the reply stated:

"A different interpretation of the infrared spectrogram by your chemists from that made by the FDA chemists * * * alter in no way the conclusions reached by FDA scientists and non-Government consultants." (p. 3)

The FDA was as uninterested in the scientific evidence after their unqualified pronouncement of September 7, 1963 as they had been before their unqualified pronouncement.

Finally, on October 16, the National Cancer Institute said, after study of the 504 cases presented to them by the sponsors of the drug, that Krebiozen was ineffective as an anti-cancer agent and that it would not sponsor or participate in a clinical trial or test of Krebiozen (Exhibit 14).

THE CONCLUSION OF THE FDA THAT KREBIOZEN IS CREATINE IS DEMONSTRABLY FALSE

The conclusion reached by the FDA that Krebiozen is creatine is demonstrably false, not only on the basis of new or additional evidence but on the basis of evidence produced by the FDA itself.

First, the so-called identical "fingerprints" are not identical but there are significant differences throughout at least half the span of the spectrum.

Second, chemical analysis demonstrates that Krebiozen is not creatine.

Third, the difference in color demonstrates that Krebiozen is not creatine.

Creatine is pure white or colorless to the naked eye. It does not fluoresce under ultraviolet light. But Krebiozen is light tan to the naked eye and fluoresces under ultraviolet light. Color of Krebiozen is noted no less than six times in the reports of the FDA scientists.

Fourth, Krebiozen contains at least six sugars and nine acids not creatine nor in creatine. This has been verified many times and by independent analyses.

Fifth, many of the clues that Krebiozen is not creatine are found in the reports of the FDA scientists themselves but were totally ignored by the FDA.

THE SPECTROGRAPHIC "FINGERPRINT"

The FDA regards its strongest evidence that Krebiozen is creatine as the so-called "fingerprint" of Krebiozen which it claims is the "fingerprint" of creatine.

The FDA has produced for publication in such journalistic organs as Life magazine and the Medical World News the superimposed "fingerprints" or spectrograms of the two substances which they claim are identical.

The two "fingerprints," however, are not identical, as will now be shown.

HOW A SPECTROGRAM IS MADE

To make an infrared spectrographic analysis, a sample of the substance is prepared and different frequencies of infrared light are beamed at it. When the light is absorbed by the sample at a specific frequency, the line of the graph at that frequency drops down. This is called an "absorption" which is seen in the shape of a "band."

THE FDA SPECTROGRAMS

In figure 1 attached,[1] the spectrograms of creatine, No. 80, top, and of the Krebiozen sample, K–1, bottom, are shown.

The FDA said that these two spectrograms were the same, and that therefore the two substances were the same, and that the Krebiozen sample was creatine.

However, if the bottom graph of Krebiozen is squarely overlaid on the top graph of creatine, as in figure 2, the difference between the two is clear. It is very evident that the Krebiozen line drops down significantly below the creatine line, from about 7.5 microns across through 13.5 microns, or for almost one-half the distance of the line.

This means that in this area there is a substance or material in the Krebiozen sample which is definitely not in the creatine sample.

The Food and Drug Administration, however, in their efforts to prove that the two were the same, widely published the picture shown in figure 3, e.g., in Life magazine—October 4, 1963—and in Medical World News—September 27, 1963—to show that the Krebiozen sample was creatine.

To get the effect in figure 3, the Food and Drug Administration did not squarely overlay one graph on the other, such as is done in figure 2, but deliberately dropped down the creatine graph about 7½ percentage points below the Krebiozen graph so that at the particular area of most obvious difference mentioned above, the creatine and Krebiozen lines would coincide and this difference would be obliterated.

Any remaining differences would appear to a non-expert to cancel each other out, because one would easily assume that the lines of the two substances weave back and forth across each other, and that any variations between them are simply due to minor experimental errors.

This false assumption cannot be disproved in the Life photograph (fig. 3) because the similar darkness of the unlabeled lines prevents the observer from knowing which line is which and whether or not they cross.

INDEPENDENT EXPERT ANALYSIS

The three more technical ways by which our expert consultant determined that the spectrograms of creatine and Krebiozen are not the same are given below.

First, by visual inspection. Dr. Scott Anderson, a Ph.D. in physics and an expert in spectrographic analysis, in a memo attached to this report as Exhibit 1 has pointed out from 8 to 10 areas in the superimposed "fingerprints" of creatine (#80) and Krebiozen (K1) where significant differences occur and where the absorption patterns differ.

Second, in Exhibits 2, 3, 4, and 5 he gives the method and the results of "plotting" the points of difference. In the first table in Exhibit 4, he plots 39 points across the spectrum, 29 of which show a difference. The smooth curve drawn through all the plotted points indicates that the Krebiozen sample contains a substance or substances possessing nine distinguishable broad absorption bands not in the spectrum of creatine.

Third, from this he plots a "differential" spectrogram of the two. This is a well known and standard procedure which shows the plotted difference between the spectrograms of creatine and Krebiozen but which, unfortunately, was not done by the FDA.

This differential spectrogram is shown in figure 4, attached.

If the spectrograms (fig. 1 or fig. 2) of the two substances, (creatine and Krebiozen) were the same, the differential spectrogram (fig. 4) would be a straight line. Differences in the two are measured by deviations from a straight line. It will be noted that there are deviations from the straight line throughout almost the entire length of the spectrum.

Finally, he compares the differential spectrogram (fig. 4) which gives an indication of the absorption pattern of Krebiozen distinct from creatine, with the spectrogram of the original Krebiozen material which was extracted from the ampules.

His conclusion is that (exhibit 4, p. 5):

"When these data are plotted and the difference spectrum compared with No. 3588 (spectrogram of original Krebiozen material, K–0, extracted from the ampules) the resemblance is remarkable." This and other spectrograms are available in Senator DOUGLAS' office.

"Thus it appears that the substance in K1 (the Krebiozen sample given the FDA) which is not creatine, is similar to the material that gives No. 3588 its broad bands."

Thus it can be shown from the spectrograms or so-called "fingerprints" mainly relied on by the FDA to characterize Krebiozen as creatine, that Krebiozen is not creatine and that the infrared spectrogram of the Krebiozen tested by the FDA: First, differs from creatine (a) by visual inspection; (b) by plotting; (c) by differential spectrographic analysis; and second, these differences are not technical and are much greater than would be due merely to tolerances or reasonable margins of error (exhibit 3); and third, that differences of this magnitude are of the utmost significance chemically and, especially, biologically (exhibit 8).

Furthermore, as every analytical chemist knows, any discrepancy in the results from even one of several methods or tests used to analyze or determine the final composition of a substance renders the results inconclusive.

It is especially true that discrepancies in one or more tests render the results inconclusive when one is dealing with biological substances where such minute quantities as 3 to 6 millionths of a gram, as in B_{12}, are clinically active and can result in the saving of the life of a human who would otherwise die of pernicious anemia (Exhibit 8).

In this case differences are noted in both the infrared spectrograms and in the reports on the mass spectrography (see below) that is, two of the four methods used by the FDA to determine that Krebiozen is creatine.

The other two methods used by the FDA—namely microscopic crystallog-

[1] These charts were exhibited by Senator DOUGLAS at the time of his speech and were attached to mimeographed copies of this report. Because of the printing rules governing the CONGRESSIONAL RECORD, they cannot be reproduced here. They are available for inspection.

raphy and X-ray diffraction can be even less sensitive to relatively small quantities of a foreign substance in a mixture than the other two methods. If the crystals of the active principle are very small, the optical method can miss them, and the X-ray method will fail if the "heavy lines" of similar substances coincide. Both methods will not detect an active principle if it is amorphous rather than crystalline. (See also Exhibit 8.)

WHEN IS A FINGERPRINT NOT A FINGERPRINT?

The Food and Drug Administration has indulged in considerable "press agentry" in describing the spectrograms as "fingerprints" which give conclusive evidence as to the identity of substances.

There is obviously no identity when these so-called fingerprints are not identical but contain differences which can be seen with the naked eye and which when plotted show differences throughout most of the span of the spectrum.

As George L. Clark points out in his Encyclopedia of Spectroscopy (p. 7), it is the advertisers of equipment who may refer to the spectroscopic curves as a kind of fingerprint (exhibit 8, p. 1).

As we know, the fingerprints of two humans are never identical. But the so-called spectrographic "fingerprints" by no means meet this standard.

For example:

Olive oil can be diluted as much as 25 percent with corn oil before the impurity is even detectable (and not at all identifiable) in the infrared spectrum.

The spectrograms of two commonly occurring sterols, cholesterol and B-sitosterol, have absorption patterns which are identical.

Most of the antibodies in the blood, and which are highly important defenses of the body against disease, cannot be detected at all by spectrographic analysis.

In general, many substances with the greatest biological activity and effects cannot even be seen yet alone analyzed by this method. (See exhibit 8, sec. 2, for further examples.)

Consequently, when differences are found which can be seen with the naked eye, or plotted, or to which differential analysis can be applied, these are of great significance.

DIFFERENCES NOTED IN BASIC REPORTS OF FDA SCIENTISTS

What is most alarming about the FDA's announcement is that some of these differences are noted in the basic reports of the FDA scientists themselves.

For example:

Mrs. Hayden reports differences in the relative intensities of the 3.0 and 9.0 μ bands of the infrared spectrograms.

Dr. Lippincott noted differences near the 3μ band. He ascribes this to water, but this is one of the key points where both Krebiozen and creatine absorb and it is one of the points where polysaccharides absorb strongly.

Professor Biemann states that "slight intensity differences show in the many small peaks, but this is of course due to differences in impurities."

This latter is a monumental admission for "impurities" is the name which is given to the foreign substances in a mixture, and indicated quite clearly that something other than creatine was in the sample the FDA claimed was creatine.

Consequently, the key clues that the sample of Krebiozen given to the FDA is not creatine alone can be found in the facts given in the reports of the FDA scientists themselves.

However, in their zeal, these were ignored by the FDA.

CONDEMNATION WITHOUT DELIBERATION?

Almost immediately following the FDA announcement on September 7, Senator DOUGLAS asked the FDA for the detailed written reports of the scientists on whom the FDA had relied to make their unqualified announcement that Krebiozen was creatine. Only after almost 2 weeks and considerable effort were these obtained.

There are some very interesting points about them. One of them is dated September 9 and another September 12, or 2 to 5 days after the FDA announcement. A third, dated September 6, appears to have been sent from the consultant in New Mexico. This raises the question as to whether it could have arrived by the time the press conference was held on Saturday morning, September 7.

One of these reports is written in the third person and is unsigned. This report is the one which includes the statement that the curves of the two spectra "matched band for band, frequency for frequency, and band shape for band shape for all bands," but it happens to be true that there are at least nine distinguishable absorption bands in the Krebiozen spectrum not in the spectrum of creatine, so that this statement cannot be correct.

Note that the FDA spectrogram of Krebiozen is dated September 3, only four days before the press conference.

A real question arises as to whether the FDA acted merely on the verbal reports of its scientists, and did not in fact analyze the written reports before its announcement in the detail which the importance of the situation deserved. This must, of course, be true in the case of two and possibly three of the reports which are either postdated or arrived after the announcement was made.

CHEMICAL ANALYSIS DEMONSTRATES THAT KREBIOZEN IS NOT CREATINE

The Clark Microanalytical Laboratory has performed repeated chemical studies on Krebiozen over a 10-year period. (This is shown by exhibit 6.)

They have extracted Krebiozen from the ampules and have done both chemical and, in conjunction with the Anderson Physical Laboratory, infrared studies on a variety of samples.

Work has been performed on the original Krebiozen from Argentina, K–0, and on later samples from batches 2 and 3 made in the United States.

Approximately the same chemical composition for Krebiozen has been found over the years except for the admixture of creatine, and when these and the infrared curves made from these samples are corrected for the now known impurity creatine, the continuity of results is confirmed.

Furthermore, the Shuman Chemical Laboratory, Inc., of Battle Ground, Ind., working closely with Prof. Roy Whistler, of Purdue University, who is a specialist in carbohydrates and polysaccharides, also isolated the original Krebiozen material from the ampules independently of the Clark Laboratory. Their findings have confirmed key points in Clark's isolation of Krebiozen.

Spectrograms of the first Krebiozen produced (for purposes of clarification referred to herein as K–0) performed in November 1958, and of later samples—SD–84 of November 7, 1962 (hereafter referred to as K–2) and SD–201 (B) of October 17, 1963 (hereafter referred to as K–3)—are mutually confirming.

Their work establishes that the chemical composition for Krebiozen clearly differs from that of creatine.

Krebiozen

Atom	K–0 initial sample, highest percent Krebiozen	K–1 FDA sample, 2.7–8 percent Krebiozen	K–2 sample [2] (SD–84) 46.31 percent Krebiozen	K–3 sample [2] (SD–201) 79.45 percent Krebiozen	Creatine	Creatine hydrate
C	38.55	32.61	41.22	39.22	36.63	32.21
H	8.02	7.32	6.41	6.12	6.92	7.43
N	[1]	27.42	[2]	[2]	32.05	28.17
O	53.43	32.65	52.34	54.65	24.40	32.19

[1] Not detected.
[2] Calculated creatine free, and all nitrogen presumed to be in creatine portion. (See exhibit 6.)

From their studies they are able to say that the sample sent to the Food and Drug Administration contained a minimum of 2.7 percent and a maximum of 8 percent Krebiozen. They have found that different samples vary from Krebiozen-rich to creatine-rich samples.

The creatine-rich samples, which include K–1, are those where the sponsors in the laboratory attempted to meet the repeated requests of the FDA for a so-called "pure" product.

This purification can now be seen in retrospect to have raised the percentage of creatine and lowered the percentage of Krebiozen in the sample given to the FDA, a circumstance which often happens in the exploration and purification of a biological substance the exact composition of which is unknown and which frequently takes years to determine (exhibit 8, part 3).

The 2.7 to 8 percent figure of K–1 is established by calculating from the nitrogen content in the mixed substance (exhibit 6). If all the nitrogen is in the creatine, there was an absolute minimum of 2.7 percent Krebiozen in the sample. If some of the nitrogen is in the Krebiozen, and there are indications of this in the fact that a small amount of glucosamine was found in the

hydrolysate of the original material (K–0) which was almost creatine free, then as much as 8 percent of the sample was Krebiozen. Again, these are significant quantities chemically, and especially, biologically. (Infrared suggests 8 percent.)

Not only have they been able to establish the basic chemical composition of Krebiozen and to distinguish it from creatine, but they show in their attached report an historical continuity going back over a period of years for the chemical composition of Krebiozen which was isolated from the ampules as well as that performed on the powder itself.

The same continuity can be seen in the infrared spectrograms of these samples and, as Dr. Anderson points out, the similarity of the spectra is very striking even though not identical. (These additional spectrograms are available in Senator DOUGLAS' office.)

In addition, he has pointed out that the difference spectrum plotted from the differences between the Food and Drug curves for creatine and for the sample submitted by Dr. Durovic on July 12, 1963 (K–1), when compared with the spectrum of the original Krebiozen material isolated from the ampules (K–0), has a remarkable resemblance (See Exhibit 4).

Thus, the chemical studies performed on a variety of samples of Krebiozen over the years prove conclusively that Krebiozen is not creatine although the samples contain varying amounts of creatine.

NCI ERROR

The Food and Drug Administration and the National Cancer Institute which together have had from 8 to 14 mgs. of Krebiozen, and at least 450 ampules, have performed no comparable work.

In fact, the NCI in 1962 performed a combustion analysis on a Krebiozen sample (K–1), the spectrogram of which the FDA says proves it was creatine (fig. 3), and came up with a carbon content of 21 percent. This is entirely incompatible with the carbon content of creatine (36.6 percent), creatinine (42.2 percent), and creatine hydrate (32.2 percent).

BUREAUCRATIC SCHIZOPHRENIA

This is an amazing case of bureaucratic schizophrenia.

The fact is that the FDA and the NCI, with their elaborate resources for analysis, have not only arrived at conflicting results but it is now clear that neither of these conflicting results is correct.

One can only hope that the FDA will be more charitable towards the NCI for its mistaken results, than it has been towards the producer and sponsors of the drug whose chemical and spectrographic analyses are more complete and more accurate than those arrived at by Government agencies which have had the total scientific resources of the Government at their call.

THE FDA IN ITS IVORY TOWER

On November 19, 1963, in a letter to Dr. Wiley, Director of FDA's Chemistry division which claimed that Krebiozen was creatine, Senator DOUGLAS stated that,

"At least two independent laboratories have extracted Krebiozen directly from ampules and have run spectrographic analyses of these. It can be done and can be done quite easily if one knows how.

"Therefore, before the Food and Drug Administration issues any announcement of any kind that they are unable to find Krebiozen in the ampules, I think it important that the scientists who have extracted Krebiozen from the ampules in the past demonstrate how it is done. They should do so with either you or your representative present but under the auspices of a neutral third party, such as a person trained in chemistry from the President's Scientific Advisors.

"I want to predict (1) that Krebiozen can be extracted from the ampules and (2) that a spectrogram from the sample will show a continuity with the many Krebiozen spectrograms over the years. and (3) that the spectrograms will differ fundamentally from creatine."

As of December 3, 1963, this letter has been neither acknowledged nor answered. Yet in the Chicago Sun Times on that date, it is reported that the FDA announced on December 2 that,

"Analysis of Krebiozen ampules shipped before 1960 show they contain nothing but mineral oil * * * Ampules since then contain mineral oil plus minute amounts of amyl alcohol and 1-methyl hydantoin * * * a laboratory curiosity."

While it is gratifying that the FDA is at last on record with an opinion of some sort about the ampules which have been in its hands for investigation for the last 2 years, again we have here the latest example of the absolute determination of of the FDA to shut itself up in its ivory tower and rebuff all offers of cooperation and assistance aimed simply at establishing the scientific facts about Krebiozen.

Senator DOUGLAS is renewing his request of November 19 that the FDA permit the sponsors of Krebiozen and their laboratory consultants to demonstrate to the FDA how to get Krebiozen out of the ampules.

In making its unqualified announcement on September 7, and by its subsequent refusal even to consider the abundance of scientific evidence offered by the sponsors, the FDA has shown a disregard for the scientific method in a matter which could be of the greatest importance to the health and welfare of the country.

DIFFERENCES IN COLOR DEMONSTRATE THAT KREBIOZEN IS NOT CREATINE

Creatine, creatine hydrate, and creatinine (the only forms of creatine) are all pure white or colorless. (See, e.g., Handbook of Chemistry and Physics, Chemical Rubber Publishing Co.)

They have no color on visual inspection and do not fluoresce under ultra violet light.

Krebiozen, on the other hand, has a light brown or tan color upon visual inspection and fluoresces under ultra violet light.

On no less than six occasions in their reports, the FDA scientists themselves describe the color of the Krebiozen samples submitted to the FDA. This fact is incompatible with the FDA conclusion that Krebiozen is nothing but creatine.

Krebiozen is variously described by the FDA scientists as a (1) beige powder, (2) with an orange tinge, (3) as light tan, (4) as brownish white with a shade of pink, and (5 and 6) twice as having a "pale buff" appearance.

How does it happen that a substance which the FDA confidently and without qualification calls creatine can nonetheless be described time and again by their own scientists with attributes of color which neither creatine, creatine hydrate, or creatinine have?

KREBIOZEN CONTAINS SUGARS AND ACIDS NOT IN CREATINE

The following six sugars or sugar derivatives and nine acids which are not creatine or in creatine or its relatives have been identified in the Krebiozen extracted by the Clark Microanalytical Laboratory (see Exhibit 6) and verified by the Shuman Laboratory after independently performing the same extraction:

1. Polysaccharides or derivatives: galacturonic acid, glucosamine, galactose, glucose, arabinose, xylose.

2. Fatty acids: palmitic, oleic, palmitoleic, myristic, stearic, C–15, C–17, lauric, shorter chain acids.

CLUES THAT KREBIOZEN IS NOT CREATINE ARE FOUND IN THE REPORTS OF THE FDA SCIENTISTS AND WERE TOTALLY IGNORED

As we have seen, an abundance of clues that Krebiozen is not creatine are to be found in the reports of the FDA scientists themselves.

Absorption patterns at 3.0 and 9.0 microns are noted by one scientist from the spectrographic analysis.

Similar patterns by a second scientist are noted at 3.0 microns.

One notes "slight intensity differences in the many small peaks" but ascribes these to impurities which, of course, means that a second or foreign substance was present in the sample. (Mass spectra.)

Six scientists note the presence of color in the Krebiozen sample.

Some of them qualify their findings, unlike their Food and Drug Administration superiors, with such terms as "good agreement" or "practically" or "substantially."

However, even the scientists substantially ignored the clues which were present in their work.

Others of the scientists misstated the facts.

One states that the spectrum of creatine monohydrate was identical with that of Krebiozen, which is not true by a variety of tests including visual inspection, plotting, and differential analysis.

Another states that for practical purposes the results of the mass spectra show the materials to be "identical." This is not true, for the results of the mass spectra show many differences in the peaks and, in dealing with a biological substance, what is "practical" in dozens of substances may be far too minute to be detected by mass spectrography.

When one scientist stated that the curves of the two spectra "matched band

for band, frequency for frequency and band shape for band shape for all bands" he had not matched them band for band, frequency for frequency and band shape for band shape.

When this was done subsequently by non-FDA scientists, differences throughout the two supposedly identical spectra were found and plotted.

The administrative bureaucrats ignored the clues entirely. They caused to be issued to the public under the authority of their Department and the Government of the United States information and conclusions which are demonstrably false and for which they must bear the public responsibility.

It is interesting to note that almost none of these persons is scientifically trained and they appear to be uninterested in the scientific method or in attempting to attain scientific truth.

PART II

THE FDA MISSES AN ELEPHANT IN THE PARLOR

It can be stated without fear of contradiction that Krebiozen and creatine are entirely different substances.

Even a small percentage of Krebiozen in creatine is of the utmost significance, because in dealing with biological substances, only one part in millions or billions can and does have the most profound biological effects.

There are many examples of this:

FLUORIDE IN DRINKING WATER

1. The amount of fluoride added to community drinking water, to stop the decay of teeth, is less than 1 part in 1 million (0.7 part per million).

The proportion of Krebiozen in the FDA sample was from 30,000 to 80,000 times this amount.

ADRENALINE

2. Adrenaline has an easily detectable biological effect in a blood concentration of 1 part in 1.4 billion.

The proportion of Krebiozen in the FDA samples was from 42 to 112 million times this amount.

BIOTIN

3. Biotin, a B vitamin, is biologically active in a concentration of 1 part in 10 billion.

The proportion of Krebiozen in the FDA sample was from 300 to 800 million times this amount.

THYROID HORMONE

4. The concentration of free thyroid hormone in the normal blood is 1 part per 10,000 million parts of blood plasma. These minute amounts are physiologically active and necessary for health.

The proportion of Krebiozen in the FDA sample was from 300 to 800 million times this amount.

GOITER PREVENTION

5. Goiter is easily prevented by the ingestion of only one part of sodium iodide per 10,000 to 100,000 parts of common salt.

The proportion of Krebiozen in the FDA sample was from 300 to 800 times this amount.

FEVER IN MAN

6. Fever in man can be produced by one ten-millionth gram of extract from the bacterium, E. Coli. A Krebiozen ampule contains 100 times this amount of Krebiozen.

DEATH IN MAN

7. The lethal dose of purified botulinum toxin in man is 0.06 millionths of a gram. A Krebiozen ampule contains 167 times this amount of Krebiozen.

See exhibit 8, section 1, for references.

Further evidence that the slightest changes in drugs can have the most profound effects is found in the hearings before the Kefauver committee when Dr. Austin Smith, president of the Pharmaceutical Manufacturers' Association, testified as follows on February 23, 1960:

"In the infinite complexities of the human organism, the slightest change or improvement in a drug for a particular patient can mean the difference between health or illness, life or death." (Hearings, pt. 19, p. 10700).

The Food and Drug Administration, in terms of biological effects, had an elephant in the parlor and missed seeing it.

A first-year chemistry student might be forgiven such an error, but when a Department of the Government not only fails to discover significant chemical and biological amounts of a foreign substance in a compound, but then uses the full force of its public relations arm to publicize its mistaken results, it must bear responsibility for its errors.

BIOASSAY IS THE EFFECTIVE TEST FOR BIOLOGICAL SUBSTANCES

The biological effects of a drug cannot even be tested by any of the means used by the Food and Drug Administration to test Krebiozen. In fact, they made not a single biological test.

The test for the effectiveness of biological substances is to use them on animals and/or man and to determine their biological effects.

Dozens of the most common biological substances have been used for long periods of time in medical treatment despite either their lack of uniformity or the fact that their full chemical composition is unknown.

After establishing that a drug is not toxic, the way it is tested is to start with exceedingly small amounts and to measure its actual effects.

For example:

All six hormones of the pituitary, many of which are used clinically, are analyzed only by biological or immunological assay. Some have yet to be isolated in their pure form.

The estrogens (female hormones) were used for about 25 years on the basis of bioassay alone before their structure was determined.

Insulin was used for over a decade in the control of diabetes before its chemical structure was determined.

Bioassay is perhaps the most sensitive test of progesterone and detects one five billionths of a gram. (See exhibit 8, section 3, for references and further examples.)

It is not unique for a hormone or hormone like substance to be used in medical treatment for decades before its entire chemical structure is revealed.

Another example is the fact that antibodies, which are chemically altered proteins in the blood and which protect man against a variety of serious and sometimes fatal illnesses, have never been isolated by chemical or physical means, and only by biological assay can their presence or effects be determined.

FDA TESTS INADEQUATE FOR BIOLOGICAL SUBSTANCES

The various tests made by the Food and Drug Administration are at best crude ones when dealing with biological matters. In fact, neither the Food and Drug Administration nor the National Cancer Institute made any biological tests of any kind on Krebiozen.

The bioassay method or technique is, in many cases, the only reliable method to determine biological effects.

DR. IVY ROUTINELY USES BIOASSAY METHOD

Dr. Andrew C. Ivy, the chief scientific sponsor of the drug, routinely uses the bioassay to determine both the potency of the samples of the drug Krebiozen and its biological effects.

In other words, he uses the method of ultimate importance when dealing with a biological substance. He measures the potency of the sample by testing its effects on human breast tumors and by measuring the effects.

Chemical, spectrographic, and microscopic and X-ray crystallographic tests are tests which in almost all the examples cited above are wholly incompetent to determine biological activity or to identify the biologically active agents in the drug.

When dealing with a biological agent, one part in a million is often as effective as 50 parts in a hundred. For example, in the treatment of pernicious anemia, a few millionths of a gram of B_{12} is as effective in most cases as any multiple of that dose could be. In the treatment of scurvy, one orange a day is as good as a hundred, and will cure practically any case.

KREBIOZEN SPONSORS FOLLOW APPROPRIATE METHODS

The producer and sponsors of the drug have routinely followed the correct, scientific, and most sensitive method of determining the potency and biological effects of the drug, while the Food and Drug Administration and the National Cancer Institute have applied only the most crude measures to test the effects of a biological substance.

These facts can only add to the sense of outrage and indignation at the FDA's methods and publicity as well as their "unqualified" and "conclusive" judgments about matters upon which they have no right or no proper evidence to make such unqualified statements.

As is often the case, those who are most certain and dogmatic have the least to be dogmatic and certain about.

PART III

NATIONAL CANCER INSTITUTE ESTABLISHES UNREASONABLE STANDARDS BY WHICH TO JUDGE KREBIOZEN CASE REPORTS

On October 16, 1963, the National Cancer Institute announced that the report of the 24 man committee which had examined the case records of 504 patients who had received Krebiozen, "clearly establishes that 'Krebiozen' does not possess any anticancer activity in man." (Exhibit 14.)

This section will show that:

First. The announcement by the Food and Drug Administration on September 7, 1963, that Krebiozen is "worthless" creatine made it virtually impossible for the 24 man NCI committee to report favorably on the 504 cases.

Second. The procedures of the 24 man committee and the subsequent refusal of the Department of Health, Education, and Welfare to have the work independently reviewed or to consult with the sponsors do not meet ordinary and accepted standards or the scientific method.

Third. The committee set extremely harsh and severe standards by which to judge the cases, namely, standards greatly in excess of those ordinarily established for the hundred or more substances which are clinically tested routinely in humans, and standards more exacting than in the classical cancer literature.

Fourth. They did not follow, in many cases, even these harsh and severe standards. Instead, they ignored many cases which appear to be valid even under these standards.

Let it first be understood that the cases were presented not to determine if Krebiozen was a "cure" for cancer—which neither its sponsors nor those who have supported a fair test of it claim—but merely to establish whether the NCI ought to conduct a "fair test" of the drug. That was all that was asked.

Instead, they really established a standard of "cure" as shown by the fact that the only cases they finally admit could have benefited from Krebiozen were those patients alive today and in whom they claimed spontaneous or natural regressions occurred.

The NCI was supposed to be looking for "anticancer activity" but in the end they threw up a straw man of "cure" in order to knock it down.

PREJUDICING THE JURY

The report of the FDA on September 7, 1963, that Krebiozen is creatine made it impossible for any committee to report favorably on the cases. If any member of the committee or official at NCI reported favorably on cases treated with what the FDA had already said was the "worthless" substance creatine, he ran the utmost danger of ruining his reputation, for how could a worthless substance possibly have any effect? (Re general background of prejudice, see Exhibit 15.)

In fact, the FDA report that Krebiozen was creatine was one of the grounds on which the NCI refused to test.

To quote from the October 16, 1963, report:

"The first basis upon which a drug might be considered for clinical trial is theoretical. The proponents of Krebiozen have advanced the theory that 'Krebiozen' is a tissue hormone which inhibits the multiplication of cancer cells. The Food and Drug Administration has demonstrated that 'Krebiozen' is not a tissue hormone but rather creatine, a normal component of the human body concerned primarily with muscle contraction."

Note very carefully that this paragraph does not say that there is no basis for the "Krebiozen" theory. That cannot be said, for many groups, including the NCI itself, are proceeding with work along these lines. Rather, it says, that the FDA says Krebiozen is creatine and consequently it will not be tested. It is ruled out not on "theoretical" grounds, but on the basis of the FDA announcement.

Attached to this report as exhibit 11 is a paper by Dr. Andrew C. Ivy on the theoretical basis of Krebiozen in which he cites the abundance of evidence and literature supporting its theoretical basis.

Additionally, for weeks prior to the public announcement on October 16, "informed sources" at the FDA were already pronouncing that the report would be unfavorable.

To quote only one example, in the edition of the Medical World News for September 27, 1963, in an article appearing on page 47 and which must have been written from 3 to 4 weeks prior to the NCI committee announcement on October 16, the following statement occurs:

"Meanwhile, informed sources said that a team of experts, after analyzing 507 [sic] selected cases of Krebiozen patients, will report that the drug has no apparent effect."

And further (p. 49):

"As far as FDA is concerned, establishing the identity just about wraps up the case against Krebiozen. Commissioner Larrick thinks that this plus evidence regarding production and distribution methods and the expected negative report on the 507 cases, should convince all but the most fanatical that the drug is of no value whatever in the treatment of cancer."

The article further refers to the "FDA's scientific and legal offensive against the so-called anticancer drug."

Thus, it is not unfair to say as the Queen of Hearts said in Alice in Wonderland: "Sentence first. Verdict afterwards."

QUESTIONABLE PROCEEDINGS

Now let us look at the proceedings of the committee.

First. Secrecy: In the first place the proceedings were secret. Neither the members of the committee nor the place of meeting nor the procedures established nor the standards set were known or available even to the sponsors of the drug prior to the October 16th announcement.

Second. No patients seen: Not a single patient nor a single doctor who had treated a patient was seen by the committee.

Third. Dr. Ivy was refused the right to appear.

Dr. Andrew C. Ivy, the chief sponsor of the drug, was refused the right to appear before the committee and to present his findings and to answer questions.

On September 4, 1963, Senator DOUGLAS wired the Department of HEW as follows:

"Why should not the committee see and hear Dr. Ivy, whose scientific standing is unquestioned, for purposes of explanation and interrogation? We are not asking that he be made a member of the committee but we are asking that this committee have the benefit of a direct statement from him and be able to ask any question which in any way might perplex them. I believe this is essential in the cause of truth. He is ready to meet with the group and answer all questions. Why should he be judged unheard and unseen?"

The following reply was sent on September 10 by Mr. Boisfeuillet Jones, Special Assistant to the Secretary.

"The purpose of the study by the National Cancer Institute is to determine whether the medical records available justify a claim of benefit. Most of the records are not the records of Dr. Ivy or of the Krebiozen Foundation, but are the records of hospitals, laboratories, and private physicians, including pathological slides and X-ray films, secured by our representatives to supplement the inadequate records from Dr. Durovic and Dr. Ivy. These records do not require interpretation by Dr. Ivy. They are being independently and objectively evaluated. Dr. Ivy has no special knowledge of these additional records and his personal participation in such evaluation is neither necessary nor appropriate."

So, Dr. Ivy was not allowed even to appear before the Committee.

It was important for Dr. Ivy to present the cases and answer questions for the cases were presented in seven categories to show certain general and specific results.

The Committee, however, judged the cases on grounds entirely foreign to the way in which the cases were selected and presented.

The general purpose of the cases was:

(a) To show the increase in appetite, decrease in pain, and/or the withdrawal of narcotics which, in the advanced cancer patient who is suffering from excruciating pain is highly significant. This would not result merely from a sense of "euphoria."

(b) To show cases in which tumors ceased to grow but did not necessarily regress. This, too, is highly significant.

(c) To show cases in which there was an actual regression of the tumor.

Fourth. Dr. Ivy and Dr. Durovic were not given detailed results of evaluation of the cases: At the press conference on October 16, 1963, the NCI and HEW were asked if, in response to a request of Dr. Ivy and Dr. Durovic, they would be given the names and detailed results of the NCI studies of the individual patient records. Dr. Ivy had presented these records, but the NCI had reordered and renumbered them and omitted both names and initials with the result that Dr. Ivy could not identify even the 15 cases individually commented on in the press release of October 16.

The NCI and HEW spokesmen refused to state, in answer to specific questions, that they would identify these 15 or any of the 504 cases to Dr. Ivy and, as of this date, the sponsors of the drug have had no information from the NCI with respect to the detailed review except that in the NCI release.

Fifth. NCI and HEW refused to make cases available for independent analysis and review: On October 22, 1963, Senator

DOUGLAS wrote to the Secretary of HEW asking that these cases be made available to qualified independent groups to evaluate and judge.

This was requested, as stated in the letter, because the nature of science is that the work done by one group of scientists should be available for independent evaluation by others.

By letter of October 30, 1963, the Assistant to the Special Assistant to the Secretary replied that:

"We cannot undertake to make them (the records) available to other groups as you suggest." (See exhibit 10.)

NO CONSULTATION

Not once, in all of these proceedings, have the parties with a direct interest been consulted or conferred with in any way or in any manner.

OFFER FOR SCIENTIFIC CONSULTATION SPURNED

Furthermore, their specific proposals to have their chemists and physicists consult with the Department were dismissed and spurned on grounds that the work of the FDA scientists was "unimpeachable."

These are not proper proceedings, let alone fair ones.

NCI SET EXTREMELY HARSH AND SEVERE STANDARDS

The NCI tests thousands of substances as potential anticancer agents. Many are merely tested routinely. Many are also tested on humans.

The NCI in the case of the records of the Krebiozen patients, which were presented merely to determine whether the NCI would test the drug, set extremely harsh and severe standards.

First, the Committee threw out some 216 cases for reasons they have not explained in any adequate detail.

Second, of the remaining cases, they threw out all cases in which there was a decrease in pain or withdrawal of narcotics.

Third, they threw out all cases in which the tumor was arrested.

Fourth, they threw out all cases in which the tumor decreased in size from 1 to 50 percent.

Finally, they counted only those cases of the 288 in which the tumor had decreased in size by 50 percent or more.

They found 15 of these.

Then, on a variety of grounds, many of which are questionable, as will be shown, they threw out 13 of the 15.

Finally, they arrived at two in which there was a regression of 50 percent or more and for which they could find no grounds of any kind adverse to the case. They ascribed these to spontaneous or natural cures or regression.

NUMBER MUCH HIGHER THAN CAN BE ACCOUNTED FOR BY SPONTANEOUS REGRESSION

Natural or spontaneous remission in cancer, according to the classical study of spontaneous regressions by Everson and Cole, occurs in from 1 in 80,000 to 1 in 100,000 cases. As they point out, some believe it does not occur at all (exhibit 8).

Even using the final results of the NCI Committee, 2 in 5,000 cases (the total number treated with Krebiozen) is from 33 to 40 times the incidence of spontaneous regression which would occur naturally.

STANDARDS HIGHER AND MORE STRINGENT THAN IN EVERSON-COLE STUDY

In the classical study of Spontaneous Regression of Cancer by Everson and Cole, a study supported by the National Cancer Society and published in the Annals of Surgery, September 1956, spontaneous regressions are defined as follows:

1. "We have defined spontaneous regression of cancer as the partial or complete disappearance of a malignant tumor in the absence of all treatment."

2. "Or in the presence of therapy which is considered inadequate to exert a significant influence on neoplastic disease."

3. "We do not imply that spontaneous regression need progress to complete disappearance of tumor."

4. "Nor that spontaneous regression is synonymous with cure."

5. "In a few cases reported in this paper, tumor which underwent apparent spontaneous regression in one area flourished unchecked in other areas of the body or reappeared at a later time."

Everson and Cole found only 47 cases with adequate documentation to be accepted as probable examples of spontaneous regression, out of approximately 4½ million cases from 1900 to 1956. Newspaper reports indicate that they have now (1963) increased the number to 130 out of a proportionately larger total number of cancer cases.

Note that the standards set by Everson and Cole in which they found only 47 cases in 56 years from all known cases are much less severe than the standard the NCI established merely to determine whether there would be a test of Krebiozen.

The Everson and Cole standards include "partial" regression, not just those of 50 percent or more.

Everson and Cole include cases where there was other therapy which they considered inadequate to influence the disease. In some cases, the NCI threw out a Krebiozen case where there was other therapy which was inadequate.

Everson and Cole include cases in which cancer flourished in other areas of the body. The NCI threw out of the 15 cases with a 50 percent regression or more, cases in which cancer may have flourished elsewhere. In fact, they may well have thrown out many more which do not even appear in the final 15.

Everson and Cole included cases in which cancer reappeared. But the NCI threw out of the 15 cases with a 50 percent or greater regression, some cases in which cancer later appeared. (See p. 6, A1 of NCI Report.)

In fact, on p. 6, A1, the NCI report establishes the following standard: "no new lesions should appear nor should tumor growth progress elsewhere."

The NCI thus set up standards more severe than Everson and Cole, and yet even on this basis they found 15 cases, but threw out 13 of these, many of which by Everson and Cole standards would be included.

A TYPICAL EXAMPLE OF BIAS

As we have seen, the NCI cast misleading doubts on the anticancer effects of Krebiozen in the 15 cases which met its stringent objective criteria of a 50 percent regression.

A typical example is seen in case NCI No. 362 described in the press release of October 16, 1963, which we have been able to identify in the records of Drs. Ivy and Durovic as Mrs. R., a 67-year-old woman with breast cancer. She is one of the patients about which the NCI states, "doubt exists as to whether or not they should be considered in this category." (I.e., showing regression.)

The NCI specific criticisms on this case (table A, 12th patient) are that the date of onset of the cancer prior to diagnosis and treatment is not certain; that the 7 month remission continued for a further unknown length of time; and that the patient died 8 months after she stopped Krebiozen therapy.

All these comments are true; all are utterly irrelevant to the question of whether there was or was not anticancer activity; and all represent a careful development of the unessential to mislead the reader.

FURTHER BIAS IN THE FIFTEEN CASES

Only in the report accompanying the press release of October 16, 1963, is there available from either the NCI or FDA any details of their criticisms of the 15 cases with which they condemn Krebiozen.

No other scientific report has been issued; and all requests for further details and for matching the identities of the cases in the press release with the case records in our hands and in the sponsors' hands have been ignored.

On each of the 15 cases, which the NCI salvaged from the 504 case records it studied, the NCI raised specific objections which it considered threw grave doubt on the justification of concluding that Krebiozen caused the objective tumor regression which the NCI admits took place.

For example, Everson and Cole standards allow a few cases in which tumors, while they regressed in one area, flourished unchecked in other areas of the body. But in patient #51 one of the key criticisms was that "the clinical picture suggests that, while regression occurred in the lung masses, metastatic disease was progressing in the CNS" (central nervous system).

In patient #141 the comment is that "a chest X-ray during the period of complete regression revealed a suspicious pulmonary infiltrate suggesting that tumor growth was occurring in the lung."

In patient #439 in which the lesion was said to have disappeared, the criticism of the NCI was that "the question arises whether or not progression was occurring elsewhere at the same time regression was noted."

While Everson and Cole in some instances counted cases in which a tumor flourished elsewhere, the NCI casts the greatest doubt on cases where they merely suggested that the tumor might be flourishing elsewhere.

Under the standards they set up, Everson and Cole do not consider that spontaneous regression need progress to the complete disappearance of the tumor, or in other words, to "cure." But even though the NCI said they would count

cases where there was a 50 percent regression or more, basically they established a standard of "cure."

For example, in patient #177 they state that mediastinal metastasis was said to have disappeared but they cast doubt because the "disease recurred and the patient died of metastatic cancer 21 months following completion of Krebiozen therapy."

In patient #362 there was a complete regression over a seven month period and perhaps for longer. But they criticized the case because the patient died eight months after completion of Krebiozen therapy.

Throughout the extremely sketchy comment on these cases, much space is taken up with irrelevant remarks which have a bearing only on "cure," and not on the issue of whether a regression (anti-cancer effect) did or did not occur. For example, remarks are made as to whether an autopsy was performed, whether the tumor later increased, whether the patient eventually died and what he died of, whether the patient later had X-ray therapy. No such facts have any bearing on the central issue which is this: did Krebiozen have an anti-cancer effect?

VALID CASES IGNORED

Independent medical analysis of the first 60 of the breast cancer cases finds that the stringent NCI criteria of a 50 percent regression by actual measurement is easily met by an additional nine pathologically proven breast cancer cases. That the following additional cases were not among the NCI 15 is evident from the difference in patient age and disease descriptions given by the NCI:

Mrs. J. F., age 58, breast cancer 5x7 cm., decreased to 2x2 cm., axillary metastases disappeared. Doctor's comment: "I am amazed."

Mrs. H. W., age 51, breast cancer 12x11 cm., decreased to 3.5x2.5 cm., axillary metastasis disappeared.

Mrs. M. H., age 57, breast cancer size of orange decreased to less than one-third that size, axillary metastases decreased by one-half; bleeding stopped; complete pain relief; healing of ulcers. Doctor's comment: "Marked improvement."

Mrs. A.A., age 54, breast cancer 13x16 cm., decreased to 4.5x6.5 cm., with complete disappearance of pain on palpation, and microscopic evidence of cancer destruction.

Miss K., age 70, breast cancer 17.5x7.5 cm., decreased to 2x2 cm., skin ulcer over cancer 8x5 cm., decreased to 6x3 cm.

Mrs. I.P., age 40, breast cancer 16x11 cm., decreased to zero; axillary node 2x1 cm., disappeared; pain disappeared; regained use of arm and went back to work as telephone operator.

Mrs. A.M., age 42, breast cancer 5x3 cm., decreased 50 percent axillary metastasis disappeared, later recurred.

Mrs. M.Z., age 67, breast cancer metastases on chest wall 2x3 cm., decreased to less than one-third. Came back when Krebiozen was stopped and again decreased 50 percent when Krebiozen again given. Doctor's comment: "Amazing."

Mrs. I.K., age 51, breast cancer metastases to neck glands completely disappeared. New metastasis appeared after Krebiozen stopped one month, and with more Krebiozen, this also disappeared.

AT LEAST ANOTHER 9 BREAST CANCER CASES MEET EVERSON-COLE STANDARD OF PARTIAL REGRESSION

There are at least another 9 breast cancer cases which the NCI has refused to recognize where the regression is not fully 50 percent. It is nonetheless considerable and substantial and in amounts which would probably meet the Everson-Cole test of "partial" regressions.

We have not thoroughly examined the balance of approximately 400 case records to determine how many of them meet NCI or Everson and Cole standards, but on the basis merely of spot checks, it is apparent that many of them do.

LETTER TO NCI

The failure of the Department of Health, Education, and Welfare to allow any independent analysis of their results raises very serious questions when independent medical analysis can spot many more cases which meet the NCI stringent requirements as to regression, pathological proof immediately prior to Krebiozen, and no other therapy but Krebiozen.

As a result of these discrepancies the following letter, which is self-explanatory, was addressed to Dr. Kenneth M. Endicott of the National Cancer Institute on October 28, 1963.

As of the 4th of December, 1963, no reply or acknowledgment had been received.

OCTOBER 28, 1963.

Hon. KENNETH M. ENDICOTT,
Assistant Surgeon General, Director, National Cancer Institute, National Institutes of Health, Department of Health, Education, and Welfare, Washington, D.C.

DEAR DR. ENDICOTT: I want to ask some detailed questions about the recent report of the committee which reviewed the records of the 504 patients treated with Krebiozen. I want to get the information as soon as possible, and it is not necessary for you to assemble all the information before any of it is sent along. In the case of much of it, I would think that you would have the facts readily at hand.

The questions I have are as follows:

Of the 288 cases which your group qualified as fulfilling the necessary conditions for evaluation, how many showed a decrease in pain and/or the withdrawal of narcotics?

In how many was the growth of the tumor arrested?

In how many was there regression of the tumor less than 50 percent? That is, from 25 to 50 percent, and so forth.

The next area of general questions I would like to have answered is this:

How many drugs or alleged anti-cancer substances or agents is the National Cancer Institute testing this year?

How many of these are being tested on humans this year?

In how many of these agents did you determine that there was more than a 50-percent decrease in tumors in a large number of cases prior to agreeing to test?

How much is to be spent this year on these drugs, agents, tests, and scientific evaluations?

In addition, would you provide me with exactly the same information for prior years—that is, how many drugs have you tested, how many have been tested on humans, what has been the cost, and how many met the prior criteria of a 50-percent regression?

Would you provide, in addition to the numbers, the specific names of the substances in each of these cases?

The third general area of questions I have concerns the members of the committee.

Would you provide for me the amount of funds that either the NCI or the NIH have provided to the various institutions represented by members of the committee since the NCI has been making grants of funds?

In addition, would you provide me the amount of NIH or NCI funds which have gone directly to each member of the committee?

In addition, may I ask on what basis you selected Dr. Albert Segaloff in view of the fact that he was so prominently connected with the highly controversial status report of the AMA?

May I ask the same question about Dr. George Escher of the Sloan-Kettering Institute, which, as you know, has made prior pronouncements about the effectiveness of this drug?

In addition, would you provide for me tables, like Table A of your release, on all of the 288 cases?

Furthermore, of the 216 which fell in the inadequate test situation, would you also provide to me information comparable to Table A.

I note that you base your final opinion at least twice in part on the findings of the Food and Drug Administration that Krebiozen is creatine. In view of the previous NCI findings of 21 percent carbon, which is wholly incompatible with creatine, do you concur in this finding? Do you believe that there are other substances or "impurities" in the Krebiozen submitted in such quantities that the substance could not be as conclusively identified as done by the FDA when it said it was creatine?

Is it not true that with respect to biological effects and in the case of antibodies, amounts in the quantity of one part in thousands, or millions, or billions can and do have significant biological effects, and also that those are more often than not undetectable by spectrographic, chemical, and the other forms of analysis used by the Food and Drug Administration in their analysis of Krebiozen?

I would like very much to have very definite answers to this last set of questions.

With best wishes,

Faithfully yours,

PAUL H. DOUGLAS.

(EXHIBIT 1)

ANALYSIS BY DR. ANDERSON OF LIFE PHOTOGRAPH OF SPECTRA (PHOTOGRAPH PREPARED BY FDA)

An inspection of the Life photograph of the two spectra reveals that it was made by laying the two spectra juxtaposed on a viewing table illuminated from below. The two spectra are displaced vertically relative to one another. The measured offset in the photograph itself is about 4 mm. This is easily determined at the 40-percent transmission points.

It is a little bit difficult to follow both curves separately all the way through the spectrum, but it is evident that if they had the same absorption throughout the spectrum, then both curves would be offset 4 mm. at every point and there would be no difficulty in distinguishing between them at any point. Since this is not the case, one of them must contain some absorption bands not in the other.

In particular, note that at 2.5μ the curve separation is 6 mm. It is obvious that one transmits more here than the other. At 3μ the offset is a "hair" less than 4 mm, at 3.25μ it is 5 mm, and at 5μ it is again 4 mm. The two curves are separated throughout this region so it is easy to compare them with one another. It is evident that the upper curve has a greater transmission at 2.5μ than the lower because the separation is greater than the offset of 4 mm. Similarly at 3.25μ the separation of 5 mm is greater than the offset of 4 mm, so the upper must have the greater transmission. On the other hand, at 3.0μ the separation is less than 4 mm, so the lower curve has the greater transmission. This means the upper curve has an absorption band in this region not in the lower curve. Moreover, the fact that the lower curve has the smaller transmission at 3.25μ indicates that the material in the upper curve which is causing the increased absorption at 3.0μ does not have the absorption at 3.25μ.

In the region of 7.5μ another absorption in the lower curve is evident. In the lower curve the transmission peak at 7.6μ is level with the little plateau at 7.9μ, whereas in the upper curve the transmission peak at 7.6μ is less prominent and is below the plateau at 7.9μ. This indicates an absorption near 7.6μ in the upper curve.

In the region of 8.25μ to 9.5μ there appears to be another absorption in the upper curve. It is noted that the transmission peaks at 8.25μ and 8.75μ in the lower curve are virtually the same. In the upper curve the one at 8.75μ is well below the one at 8.25μ. It is not possible to tell definitely from these curves but it appears that the lower curve at 9.25μ really belongs to what we have called the upper curve. In any case, they are together again at the absorption peak at 9.5μ. Therefore, the indications are that the upper curve has a broad absorption band between 8.25μ and 10μ with a peak absorption near 9.25μ.

The offset of the transmission peak at 10.9μ is less than it is at 10.2μ and 12μ. Although it is impossible to tell which spectrum is which, it's obvious that one has an absorption near 11μ not in the other.

SCOTT ANDERSON.

OCTOBER 30, 1963.

(EXHIBIT 2)

RE: DIFFERENCE SPECTRUM OF FDA NO. 80 AND K1

A casual inspection of the two infrared curves of creatine hydrate (No. 80) and Krebiozen Crystals (K1), which were determined by the Government scientists, shows that K1 is largely creatine hydrate, containing, however, a small percentage of some other material. If one plots the difference between these two spectra as a function of wavelength, one obtains a curve which is similar to the spectrum of the additional constituent present in K1. This plot is in no way dependent upon the manner in which the difference is calculated, but neither is it the exact spectrum of the unknown constituent. The way to obtain this spectrum is to isolate the constituent by chromatography or other means and actually determine its spectrum. Nevertheless, the difference spectrum properly calculated will be a close approximation if one neglects any differences due to impurities in the creatine.

The significance of the final plot we obtained is the fact that it is so similar to Spectrum 3588. In fact, if one assumes that the sharp bands in 3588 are due to creatine (they do occur at the wavelengths of the strong absorptions in creatine) and subtracts them mentally, the similarity is very striking. K1 is a sample which Dr. Durovic gave to the FDA, saying it was a fraction he isolated from Krebiozen serum, whereas Spectrum 3588 is the spectrum of material Mr. Clark isolated from Krebiozen ampules. Since the broad-banded structure in 3588 is similar to the difference spectrum, and the sharp bands in 3588 correspond to the strong bands in creatine, it appears that the material of 3588 has the same origin as K1 and that K1 represents a creatine rich fraction, whereas 3588 (actually separated from ampules by an independent chemist) is a non-creatine-rich fraction.

(EXHIBIT 3)

CALCULATION OF THE "DIFFERENCE SPECTRUM"

It sometimes happens that two materials of nearly the same composition have infrared spectra that differ largely in their "backgrounds." If one of the materials is nearly pure, one can obtain a fairly good notion of the spectrum of the impurity in the second material by calculating the "difference spectrum."

The "difference spectrum" is determined by calculating the difference in optical density of the two spectra. This type of calculation gives the best results when the spectra are made with the same cell thickness (or concentration in the case of pressed discs). This is the case with the two government spectra #80 and K1. At 5μ where neither has any absorption bands, both spectra have 78 percent transmission. This indicates that both briquettes were quite comparable as far as light scattering and reflections are concerned. And according to the labels they had the same concentration. The briquettes were well prepared and are quite amenable to a "differential" calculation.

The optical density, O.D., is directly proportional to cell length and concentration (and extinction coefficient at a given band but since we are going to get a difference spectrum they cancel out) and is equal to $\log_{10} 1/T$ where T represents the transmission, i.e., $O.D.=\log_{10} 1/T$.

To get the optical density difference construct a table with columns for: 1) wavelength (or wave numbers), 2) percent transmission for #80 and K1, 3) the optical density for #80 and K1, 4) the optical density difference $-\triangle O.D.$, and a final column for the percent transmission difference. Measure the percent transmission with dividers (I found that the spacing between the 5-percent lines corresponded to 20 divisions of the 50 scale on my architect's ruler). Try to use the center of the line trace. It's virtually useless to make measurements on the steep sides of bands but one can use transmission peaks, absorption peaks, and the plateaus.

Since an inspection of the curves shows that K1 has greater impurity absorption than does #80, it is easier to consider $\triangle OD$ positive when $OD_{K1} > OD_{\#80}$.

In view of the fact that #80 obviously has some impurities not in K1 and if the difference spectrum is to be compared with actual spectra it is desirable to add an equalization factor to ΔOD to take care of scattering, reflection, etc., found in real spectra. In this way when one converts (ΔOD + equalization factor) to percent transmission, the plotted values will all be less than 100 percent. Since the OD for 78 percent is 0.109, this makes a logical equalization factor for these particular spectra. However, if it makes the arithmetic any easier, a factor of 0.100 is just as good.

The chosen equalization factor is added to OD, watching the sign convention, i.e., $OD_{K1} > OD_{80} = > + \triangle OD$. This synthetic optical density is then converted back to a percent transmission and the wavelength versus percent transmission curve drawn.

If one does not use the equalization factor, then one should take a 100 percent transmission line across the middle of the chart and plot just Δ OD versus percent transmission. In this way, where #80 absorbs more strongly than K1 the plot will be above the 100 percent line and when K1 absorbs the stronger the plot will be below the 100 percent line. The final plot is similar to a differential spectrum and one may get a good portion of the spectrum of the major impurity, particularly if K1 has appreciably more impurity than #80. It is distorted by the presence of a sharp banded impurity in #80 not in K1. Moreover, where the absorption is so great in both spectra, as near

3μ, the measurements cannot be too significant. Here the width of the line is an appreciable difference in optical density. A decrease of percent transmission from 12 to 11 is a 19.6 percent increase in the optical density. I made measurements in this region the best I could and got an intelligent result but I did it more to show that #80 absorbed more strongly here than K1. I consider the fact that I could draw a smooth line through the points to show an apparent additional band in K1, a circumstance that would require more proof.

SCOTT ANDERSON.

OCTOBER 29, 1963.

(EXHIBIT 4)

CALCULATION OF THE DIFFERENCE SPECTRUM

OCTOBER 25, 1963.

Recently Mr. Clark gave me copies of the report of the government scientists to Dr. Frank H. Wiley of the U.S.F.D.A. Among these is a report by Mrs. Alma L. Hayden. With the written description of her work she submitted copies of the spectrum of Creatine Hydrate (#80) and KI which was described as Krebiozen Ampule 12–435X 7–12–63 RND. Mrs. Hayden mentions that the sample KI is a beige powder (p. 3 of her report). Also on p. 3, line 11, fourth paragraph, she states that "the spectrum of Krebiozen (12–435X) is identical with that of Creatine Hydrate." Yet an inspection of the two infrared curves supplied with the report shows that this is not 100 percent true. For example, in spectrum #80 the two bands at 9.51μ and 10.9μ have about the same maximum intensity whereas in KI the peak absorption of the 9.51μ band is about 43 percent and the 10.9μ band is about 49.5 percent.

There are other points of obvious difference but I decided to see if we could determine the spectrum of the trace material in KI. (Several points lead one to believe that KI has the greater amount of impurities although one can make out some bands in #80 not in KI.) At 5μ they both have a transmission of 78 percent which indicates that both briquettes are equivalent. Therefore one seems justified in measuring the optical densities point by point and subtracting them and having the λ vs. optical density of their difference. In other words, we should have something close to the differential spectrum. The extinction from 3 to 3.25μ is so great in both spectra that measurements here shouldn't mean too much. Even the trace line width at these optical densities amounts to a readable difference in optical density. Many of the bands are very sharp so measurements on the sides of bands will be virtually meaningless. Nevertheless, we attempted it. I constructed a table with the wave length at which points were made and the percent transmission of each curve at that point. The percents transmission were converted to optical density and the difference calculated. The difference was considered positive if the optical density of KI was greater than that of #80.

Since we were going to compare the synthetic curve with the spectrum of real samples in which there is scattering and reflection losses we added 0.109 to the ΔO.D. so that when the ΔO.D. was zero as at 5μ the synthetic curve would have a transmission of 78 percent.

λ	Percent trans.		Opt. density		ΔO.D.	ΔO.D.+ 0.109 (percent)	λ	Percent trans.		Opt. density		ΔO.D.	ΔO.D.+ 0.109 (percent)
	#80	KI	#80	KI				#80	KI	#80	KI		
5μ	78.0	78.0	0.109	0.109	0	78.0=100	825	55.0	53.0	0.260	0.276	0.016	75.0
1,710	12.5	12.4	.903	.906	.003	77.5	810	47.0	47.6	.328	.322	−.006	79.0
1,680	30.0	28.5	.523	.545	.022	74.1	800	48.0	48.0	.319	.319	0	78.0
1,668	25.0	24.0	.602	.620	.018	74.6	1,350	51.0	51.0	.292	.292	0	78.0
1,648	31.3	30.0	.504	.523	.019	74.5	1,420	37.0	39.0	.432	.409	−.023	82.0
1,575	35.0	35.0			0	78.0	1,500	59.0	58.0	.229	.237	.008	76.5
1,490	59.0	58.3	.229	.234	.005	77.0	1,695	12.9	12.4	.888	.906	.018	74.5
1,428	33.5	34.0	.475	.468	−.007	79.2	1,550	48.0	47.5	.319	.323	.004	77.0
1,312	22.5	23.0	.648	.638	−.010	79.5	1,900	77.0	77.0			0	78.0
1,250	60.0	57.5	.222	.241	.019	74.5	1,800	71.5	71.5			0	78.0
1,200	62.0	58.7	.208	.232	.024	73.7	2,000	77.0	77.0			0	78.0
1,160	60.0	56.0	.222	.252	.030	72.6	2,500	70.0	69.5	.155	.158	.003	77.4
1,130	56.0	50.0	.252	.301	.049	69.5	2,800	49.0	50.2	.310	.300	−.010	81.2
1,112	29.5	27.6	.530	.559	.029	73.0	3,090	15.0	15.8	.824	8.01	−.023	82.1
1,050	50.0	42.6	.301	.371	.070	66.5	3,200	27.0	26.5	.568	.576	−.008	79.4
1,000	69.5	62.0	.158	.208	.050	69.2	3,400	16.2	16.2			0	78.0
931	74.0	65.0	.131	.187	.056	68.4	3,800	74.0	78.0	.131	.109	−.022	82.0
890	72.5	65.5	.140	.184	.044	70.5	2,900	45.0				0	78.0
918	52.6	49.0	.279	.310	.031	72.5	1,440	51.0	51.0			0	78.0
830	53.0	52.0	.276	.284	.008	76.4							

When these data are plotted and the difference spectrum compared with #3588 the resemblance is remarkable. Of course, the synthetic spectrum (which was plotted as 5853) does not have any of the sharp bands but the broad banded portion of 3588 matches remarkably well with 5853. Thus it appears that the substance in KI not creatine is the same material that gives 3588 its broad bands. Moreover, it would appear that the sharp bands in 3588 are probably due to a creatine impurity.

We then tried the same thing with SD–84, Spectrum 5455. This time we ran a 75 percent creatine briquette and subtracted its optical density from 5455. This procedure is not as elegant as it was for the government curves. What we need to do is to work out extinction coefficients for creatine and find out how much creatine is in SD–84 and then subtract a band at a time. Nevertheless, we gave it a try and added an equalization factor of 0.250 to compare the plot 5855 with 3588 and 5850. The similarity between 3588, 5855, 5853, and 5850 is most striking.

λ	Percent trans.		Opt. density		ΔO.D.	ΔO.D.+ 0.250 percent	λ	Percent trans.		Opt. density		ΔO.D.	ΔO.D.+ 0.250 percent
	0.75 percent C	SD-84	0.75 percent C	SD-84				0.75 percent C	SD-84	0.75 percent C	SD-84		
3,800	61	50	0.215	0.301	0.086	46	1,450	45	28	0.346	0.552	0.206	35
3,600	57	45	.244	.347	.103	44	1,420	38	22	.420	.658	.238	
3,500	46	25	.338	.602	.264	31	1,450	45	28	.346	.552	.206	35
3,400	35	10	.456	1.000	.544	16	1,390	49	29	.310	.538	.228	16
3,300	35	5	.456	1.301	.845	8	1,325					.263	31
3,200	39	5	.408	1.301	.893	7	1,325					.263	31
3,060	35	11	.456	.958	.502	18	1,250	54	33	.268	.482	.214	34
3,000	37	11	.432	.958	.526	17	1,200	56	38	.252	.420	.168	38
2,900	45	20	.347	.698	.351	25	1,150	55	29	.259	.537	.278	30
2,500	64	55	.194	.260	.066	48	1,110	39	15	.408	.824	.416	22
2,000	66	64	.180	.194	.014	54	1,060	56	18	.252	.744	.492	18
1,900	64	63	.194	.200	.006	56	1,000	59	32	.229	.495	.266	30
1,800	57	57	.244	.244	0	56	980	50	26	.301	.584	.283	29
1,690	35	16	.456	.794	.338	26	850	58	48	.236	.318	.082	47
1,600	36	10	.443	1.000	.557	16	800	48	34	.318	.468	.150	40
1,615	26	5	.583	1.301	.718	11	750	52	38	.384	.420	.036	52
1,550	45	26	.347	.587	.240	32	700	39	18	.408	.744	.336	26
1,500	52	40	.284	.397	.113	43	675	42	25	.376	.602	.226	33

It cannot be emphasized too strongly that these calculated difference spectra are not the spectra of any compound but do give an indication of the spectrum that will be found when creatine is removed from the sample and the residue run alone.

SCOTT ANDERSON.

October 25, 1963.

(EXHIBIT 5)

ANDERSON ANALYSES OF FDA SPECTRA

THE ANDERSON PHYSICAL LABORATORY

(Progress report for the month of October on problems J–1139, by Scott Anderson, October 26, 1963.)

During the last 10 years our laboratory has determined the infrared spectra of samples received by Mr. Clark from the Krebiozen Foundation. However, it was not until 1958 that he brought us a sample which he said was "all the isolated Krebiozen in the world." We ran its spectrum as our No. 3588. It was a rather monotonous sort of thing, which had the general appearance of a polysaccharide or higher sugar with perhaps an amine impurity.

Subsequent to that time we have determined the spectrum of perhaps 2 dozen samples related to Mr. Clark's work for the Krebiozen Foundation. These spectra have varied from that consisting of a few broad weak bands to a rather complicated spectrum of many sharp bands, as well as all degrees of mixtures of the two types. The two extremes and one mixture of the two are shown in figure 1.* The 3588 is the original 1958 spectrum and was labeled "Combined Isolation Product 1 & 2." SD–84 is another sample from Dr. Durovic. And 5084 is the spectrum of a sample called "Krebiozen Crystals."

All these spectra appeared to be those of mixtures of compounds, yet one could see running through them the "threads" of the two basic types of spectra. Seldom did we determine a spectrum that didn't display a sharp band or so like the one at 1400 cm^{-1} in CIP 1 & 2. Only rarely, if indeed more than twice, did we obtain a spectrum like K1 which shows almost no broad banded structure. The spectrum of SD–84 is much more typical of the fine-structured spectra. Most samples varied between CIP 1 & 2 and SD–84. Of course, I am told, we have by no means determined the infrared spectra of all the samples received by Mr. Clark.

In the last couple of years when asked to determine the spectrum of a sample we have been asked to compare it with 3588. This repetition of comparisons has pointed to a special significance in CIP 1 & 2 of spectrum 3588 in spite of the fact that 5084 was labeled "Krebiozen Crystals." The question arises as to the nature of "Krebiozen Crystals" because this is the sample submitted by Dr. Durovic to the F.D.A.

To quote the Government scientists:

1. Mary E. Mrose, U.S. Geolog. Survey "a pale buff" aggregates. X-ray "powder data indicate very good agreement between the data of creatine and Krebiozen." "Krebiozen and creatine are one and the same compound."

2. Mrs. Alma L. Hayden, Div. of Pharmaceutical Chem.–BPS "The (infrared) spectrum of this disk (creatine monohydrate) * * * was identical with that of Krebiozen spectrum" p.1. "The spectrum of sample 2 is very similar to that of the anhydrous creatine with differences only in the relative intensities of the 3.0 & 9.0μ bands." (Based on NCI spectra) p. 2. "a beige power" p. 3. Based on her own spectra "the spectrum of Krebiozen (12–435x) in KCI was identical with that of a micro-plate of Creatine hydrate in KCI."

3. Dr. Ellis R. Lippincott, University of Maryland, "The IR spectrum corresponding to B also matched the IR curve for d (anhydrous creatine) with the exception that evidence for water near 3μ indicating that the sample from which this curve (B?) was taken was creatine with some water present" p. 2. "* * * slight orange tinge" to crystals. p. 3. "The two curves matched band for band, frequency position for frequency position and band shape for band shape for all bands." p. 3. "His conclusion was that Krebiozen labeled KI was definitely and unequivocally creatine hydrate." p. 4.

4. W. V. Eisenberg, Microanaly. Br., Div. of Microbiology (refractive index measurement) "light tan powder" "material is practically pure creatine monohydrate." ("practical" test, of course, in a biological is anti-cancer activity.)

5. Prof. Raymond N. Castle, University of New Mexico "buff colored" p. 2. "so the Krebiozen is substantially pure creatine monohydrate."

6. Mr. Joseph Damico (mass spectra) Div. of Food of the FDA, "For all practical purposes, the results obtained indicated that the spectra (mass) of creatine hydrate, creatinine, and Krebiozen powder are identical."

7. K. Biemann, Prof. Chem. MIT "brownish white with a shade of pink" p. 1. "slight intensity differences show in the many small peaks, but this is of course due to differences in impurities" p. 2. "for all practical purposes" identical with either creatine (hydrated or unhydrated) or creatinine."

The IR spectra of creatine monohydrate and KI as determined by Mrs. Hayden are given in figure 2. KI has some broad band not in creatine monohydrate at 9μ. If one draws a line across the transmission peaks at 8.25, 8.75, 9.4μ in the creatine spectrum #80, the line slopes up to the right, whereas in the spectrum of KI it slopes down, indicating the presence of something in KI which has its maximum absorption near 9.5μ or something in creatine with absorption near 9.5μ or something in creatine with absorption maximum at 8.75μ. There are other points somewhat less obvious at which the presence of a second constituent is indicated. For example, the line across the transmission peaks at 7.55 and 7.8μ slopes downward to the right in creatine and upward to the right in KI.

The ideal way to obtain a notion of the spectrum of the impurity difference is to subtract the creatine spectrum from KI and plot the difference or "differential" spectrum. This we did by noting that both spectra have a transmission of 78 percent at 5μ. We normalized the difference spectrum to 78 percent so that it would have the appearance of a spectrum made with a very small amount of material. The spectrum is not as dramatic (if the "impurity" content is very great) as the straight differential spectrum but to my way of thinking is more "natural" and if comparisons are to be made with actual spectra it is more realistic. The only way to really get the spectrum accurately anyway is to separate out the constituent (or constituents) and run the isolated component by itself. However, the calculation gives a good indication of the general character of the "impurity" spectrum.

Our calculated differential spectrum is given in figure 3. If one compares this with 3588 one is immediately impressed with the similarity of the two curves with the exception that 3588 has bands at 3200 cm^{-1} and sharp points at 1640 (6.2μ), 1390 (7.2μ) and 1150 cm^{-1} (9μ) not present in the differential spectrum. The disappearance of these bands in the differential spectrum indicates that creatine was present as an impurity in 3588 and that the bulk of 3588 is the component which is a minor constituent in KI.

A similar calculation was performed on SD–84 (fig. 1) by subtracting out the spectrum of a 0.75 percent KBr briquette and normalizing to 45 percent transmission. Again this was done because comparisons are to be made with single component spectra.

In figure 3 we have compared the two differential spectra with 3588 and SD–201 (B), a sample of Krebiozen from which the bulk of creatine has been removed. The similarity of all the spectra is very striking even though admittedly not identical. The indications are that the non-creatine portion is not a single component and relative concentrations vary from sample to sample. Only some very neat chromatography can tell the facts. In addition, it must be remembered that our "differential spectra" are at best approximation.

Therefore it would appear that most samples consist of at least two components—Creatine plus some substance (or substances since relative concentrations appear to vary) which had an IR spectrum consisting of broad bands centered near 3400, 1650, 1450, 1050 cm^{-1} with still weaker bands beyond 900 cm^{-1} typical of many polysaccharides.

Very truly yours,

SCOTT ANDERSON, Ph. D.,
Director.

(EXHIBIT 6)

CLARK CHEMICAL ANALYSES OF KREBIOZEN

CLARK MICROANALYTICAL LABORATORY,
Urbana, Ill, October 29, 1963.

KREBIOZEN—CHEMICAL STUDIES

The initial sample was received February 10, 1953. Analysis indicated: C 12.02, H 1.99, Ash from CH 71.45, N

*Figures in this exhibit refer to spectrograms available in Senator DOUGLAS' office for inspection by members of the press. (Editor's note.)

None detected, P none, Cl 11.30*, calculated ash free C 42.10, H 8.37. Reanalysis after redrying, loss of weight of 1.73 was found, C 9.95, H 2.07, ash from CH 74.19, calculated ash free, C 38.55, H 8.02.

Infrared and ultraviolet studies gave us some ideas as to chemical composition and emission analysis showed the ash to have a broad spectrum of metals. Various attempts at solubility separation were made without marked success. Finally, as a calculated risk, we resorted to the use of ion exchange resin to remove the ash, but after evaporation of the slightly acid solution there was such a marked change in solubilities that we concluded that there had been some change in the molecule which we did not understand and hesitating to proceed we temporarily terminated the project although the materials were retained.

Several years later we were given a supply of ampules which would allow us to make our own extraction. Using water and methanol-water, we were able to obtain enough material for a significant infrared study which indicated that we were working with either a carbohydrate acid joined with a polysaccharide or that we had a mixture containing the two classes of substances.

With this information we went back to the residue of the original material and separated the water soluble and methanol soluble materials from each other. Infrared indicated the water soluble portion to be polysaccharide and the methanol soluble to be aliphatic acid.

All infrared studies were done by the Anderson Physical Laboratory of Champaign, Illinois, under the direction of Dr. Scott Anderson.

We next had our isolation confirmed by the Shuman Chemical Laboratory, Inc. of Battle Ground, Indiana, working closely with Professor Roy Whistler of Purdue University who is a specialist in carbohydrates and polysaccharides. They also confirmed our cleavage and the class identity of the cleavage parts. Next by strong hydrolysing conditions the polysaccharides portion was further divided and by paper chromatography galacturonic acid, glucosamine, galactose, glucose, arabinose and xylose were identified. This was done several times.

The fatty acid portion was esterified and by gas chromatography the acids in their order of abundance were palmetic, oleic, palmitoleic, myristic, stearic, and smaller quantities of C–15, and C–17, lauric and shorter chain acid.

Up until the time Dr. Durovic began the preparation of more material we had never had enough for combustion analysis since that done on the initial sample. These new preparations have always shown varying amounts of nitrogen although none was found in the original material. It is true that glucosamine was found in the hydrolysate, and there is some evidence of creatine in the material isolated from the original ampules, but they must have been present in a very small quantity and thus almost negligible to the whole material.

* Later knowledge shows this was probably ionic and resident in the mineral ash content.

Now, creatine, which contains a high percentage of nitrogen, is known to be present in some of these new preparations. When there are two substances in a composition and one is known, that one can be calculated out mathematically and thus the percentage of the other established.

This has been done with two samples:

Sample No. SD–201 (79.45 percent Krebiozen): C 39.22 percent, H 6.12 percent, O 54.65 percent.

Sample No. SD–84 (46.31 percent Krebiozen): C 41.22 percent, H 6.41 percent, O 52.34 percent.

(See attached appendix for the calculation.)

This finding of approximately the same percentage composition, as the initial material makes them mutually confirming. Their infrared curves also corrected for the known impurity, creatine, are comparable to the isolation product (Spectrum No. 3588) and serve as further confirmation of continuity. (See report from The Anderson Physical Laboratory, Oct. 26, 1963.)

There is a bit of difference in the hydrogen content but the initial material could have been influenced by water of hydration in the mineral content and thus these later findings for this have our greatest confidence.

This brings us to this date.

HOWARD S. CLARK.

APPENDIX

OCTOBER 29, 1963.

If we presume that all of the nitrogen in SD–201 is due to creatine hydrate we can calculate the percentage composition of the remaining material which is presumed to be Krebiozen.

SD–201: C=37.78%, H=6.39%, N=5.79%, O=50.04%. (Observed Values.)

Creatine Hydrate: 32.22%, 7.44%, 28.18%, 32.19%. (Actual Composition.)

The equations become:

$$\frac{\%\ \text{N in SD–201}}{\%\ \text{N in creatine}} = \%\ \text{creatine}$$

$$\frac{5.79}{28.18} = 20.55\%\ \text{Creatine}$$

By difference = 79.45% Krebiozen.

(% of element in substance) (% of substance in the sample) =% of element from substance in the total.

C=Total % Carbon in sample			37.78
Less Creatine Carbon	(32.22)	(20.55) =	6.62
Carbon from Krebiozen	(79.45)	(X) =	31.16
X=C in Krebiozen=39.22%.			
H=Total % Hydrogen in sample			6.39
Less Creatine Hydrogen	(7.44)	(20.55) =	1.53
Krebiozen Hydrogen	(79.45)	(X) =	4.86
X=H in Krebiozen=6.12%.			
O=Total % Oxygen (by difference) in sample			50.04
Less Creatine Oxygen	(32.19)	(20.55)	6.62
Krebiozen Oxygen	(79.45)	(X)	43.42
X=O in Krebiozen=54.65%.			

C=39.22%
H= 6.12%
O=54.65%

99.99%

SD–84 calculated in the same manner shows it to be 46.31% Krebiozen whose percentage composition is:

C=41.22%
H= 6.41%
O=52.34%

K1=A–1 2.7% Krebiozen; A–2 (Companion lot) 2.5% Krebiozen (too small to allow calculation).

HOWARD S. CLARK.

(EXHIBIT 7)

SLIGHT DIFFERENCES IN DRUGS WHICH SAVE LIVES

Testimony of Dr. Austin Smith, president, Pharmaceutical Manufacturers Association, February 23, 1960:

"The critical importance of swift, comprehensive new product information is unique to the prescription drug industry. Even slight differences or product improvements can be important to the patients. Doctors are aware that unacceptable side effects may be produced in a patient treated with one form of a drug, but in some patients new or improved drugs frequently can reduce these side effects. In the infinite complexities of the human organism, the slightest change or improvement in a drug for a particular patient can mean the difference between health or illness, life or death."

Citation: Hearings, Subcommittee on Antitrust and Monopoly, Administered Prices in the Drug Industry, part 19, page 10700.

Testimony of Dr. Philip S. Hench, Mayo Clinic, December 10, 1959:

"So in talking about a minor modification from the standpoint of chemistry, there is really a minor modification that makes all the difference in the world. You can rationalize these modifications. For example, sir, in due time they made a compound called hydrocortisone, and that one simple change made all the difference in the world.

"It raises the effect on electrolytes many, many times. There was no reason to understand why, but it did, so you would conclude therefore that every new cortisone that has that would have that same excessive action. But no, later without any reasoning they found that the addition of another factor, which is a minor thing, canceled out the first affair.

"So that what is minor is a decision after things have been discovered, not before. And if we were to ask the pharmaceutical chemist not to bother with minor modifications on the drawing board, we might miss some of the most amazingly helpful cortisones that would ever be discovered."

Citation: Hearings, Subcommittee on Antitrust and Monopoly, Administered Prices in the Drug Industry, part 14, page 8172.

(EXHIBIT 8)

BIOLOGICAL FACTS BEARING ON KREBIOZEN

1. EXAMPLES OF MINUTE AMOUNTS OF BIOLOGICAL SUBSTANCES WHICH HAVE LARGE BIOLOGICAL EFFECTS

NOTE.—FOR COMPARISON, THE AMOUNT OF KREBIOZEN IN ONE AMPULE IS 10 MILLIONTHS OF A GRAM

(a) A single dose of 3 to 6 millionths of a gram of B_{12} is clinically active in a patient with pernicious anemia (The Vitamins, vol. 1, Sebrell (former director of NIH) & Harris, Academic Press, N.Y. 1954, p. 397). 0.00013 millionths of a gram are required per cc. to support half maximum growth of L. lactis Dorner (ibid., p. 397).

(b) The human body makes only 50 to 100 millionths of a gram of thyroid hormone per day (Starling's Human Physiology, 13th ed., Lea & Febiger, Phila., 1962, p. 1423).

(c) The concentration of free thyroid hormone in the normal human blood is 1 part per 10,000 million parts of blood plasma, and this concentration is physiologically active and necessary for health (ibid., p. 1421).

(d) Goiter is easily prevented by the ingestion of only 1 part of sodium iodide per 10,000 to 100,000 parts of common salt (ibid., p. 1423).

(e) Biotin, a B vitamin, is biologically active in a concentration of 1 part in 10 billion (The Vitamins, supra).

(f) Adrenalin has an easily detectable biological effect in a blood concentration of 1 part in 1.4 billion parts of blood—McLeod's "Physiology in Modern Medicine," 9th edition, 1941, page 171.

(g) Adrenalin is so powerful that the nonpregnant rat's uterus suspended in Tyrode's solution—modified—is relaxed by a concentration of 1 part in 10 billion (Starling's "Human Physiology," supra, p. 1412).

(h) The blood plasma concentration of many of the ovarian hormones are of the order of 2 millionths of a gram per 100 cc. of blood (ibid., p. 1474).

(i) To produce fever in man, one need only inject one ten-millionth of a gram of an extract from the bacterium, E. Coli (ibid., p. 1527).

(j) The lethal dose in man of purified botulinum toxin is 0.06 millionths of a gram (ibid., p. 1529).

2. EXAMPLES OF MINUTE AMOUNTS OF BIOLOGICAL SUBSTANCES WHICH HAVE LARGE BIOLOGICAL EFFECTS AND CANNOT BE DETECTED BY INFRARED SPECTROSCOPY, MASS SPECTROSCOPY, X-RAY DIFFRACTION ANALYSIS, OR MICROSCOPIC CRYSTALLOGRAPHY

(a) Vitamin B_{12a} has only half the biological activity of B_{12} in chicks, but an overlay (by MHR) of their infrared spectrograms (The Vitamins, supra, p. 407–8), shows as little or less difference than the overlay of creatine and Krebiozen spectrograms.

(b) "A number of synthetic 5,6 dimethyl benzimidazole glycosides (compounds related to vitamin B_{12}) possess absorption spectra indistinguishable from each other" (ibid., p. 412).

(c) "The chemical properties of antibodies are as yet indistinguishable from those of other gamma globulins of serum" (Starling, supra, p. 1531).

"Except for their ability to react with specific antigens, (a biological test), antibody globulins show no chemically recognizable differences from normal globulins" (Zinser's Microbiology, 1960, Appleton Century Crofts, N.Y., p. 131).

(d) General principles—"Some advertisers of equipment may refer to such a curve as a kind of fingerprint. However, it should be emphasized that a spectrophotometer is a nondiscriminatory instrument; that is, for a mixture of two or more absorbing substances the absorption spectrum shows simply the effect of all absorbers. If the curves for an unknown and for a known compound agree closely, identity of composition or structure is indicated strongly, but not confirmed. It is possible for two quite different systems to yield closely agreeing curves, at least over limited spectral regions." (Encyclopedia of Spectroscopy, Ed. by Geo. L. Clark, Res. Prof. Analyt. Chem. Emeritus, Univ. of Illinois, Reinhold Publ. Corp., N.Y. 1960, p. 7.)

(e) Inaccuracies with sterols (sex hormones and their relatives): "It has been shown that because of the similarity of the spectra, infrared absorption spectrophotometry is not entirely satisfactory for the qualitative identification of the commonly occurring sterols. This is especially true in the case of cholesterol and B-sitosterol which have absorption patterns that are identical even in the smallest detail. While other sterols differ somewhat in the details of their spectra, in many cases these differences are insufficient for positive differentiation and/or identification.

"X-ray diffraction, on the other hand, yields powder patterns which differ sufficiently to permit positive identification of a given sterol. However, certain precautions must be observed in the use of powder patterns for this purpose, since a number of sterols can crystallize in more than one system and then yield more than one pattern for the same substance.

"In the case of cholesterol and dihydrocholesterol mixtures, infrared spectrophotometry would appear to be applicable, since each sterol has specific spectral absorption bands. Unfortunately, because of the weakness of these bands, the spectra of mixtures containing less than 25 percent dihydrocholesterol or cholesterol cannot be distinguished from the spectra of the major component. It is clear that this method is not reliable qualitatively and is useless from the quantitative point of view.

"As applied to the analysis of sterol mixtures, X-ray diffraction was more effective than infrared spectrophotometry. This method could be used to determine the composition of physical mixtures within 10 percent by using diffractometer calibration charts. The X-ray technique was inadequate for the analysis of crystallized mixtures of sterols. When dissolved, mixtures of sterols often crystallize as complex crystals, the pattern of which differs from that of the physical mixture of the same percentage composition. The formation of these complex crystals depends in an undetermined way on the percentage composition of the mixture. Therefore, until further studies have been completed, the use of X-ray diffraction for quantitative determination of mixtures—other than physical—is not recommended." (Ibid., p. 577.)

(f) "The mass spectrum is a 'fingerprint' of a compound just as the infrared spectrum is" (ibid., p. 583). (Note: therefore with some of the same limitations.)

"Ordinarily the mass spectrometer cannot be used for detecting components in a mixture in the parts per million range" (ibid., p. 585).

"Mass spectrometric analyses are relatively rapid, an hour or two being sufficient for the analysis of a moderately complicated mixture" (ibid., p. 628).

(g) Re: Microscopic crystallography: "Polymorphic transformations occurring after the isolation of a crystalline compound may be misleading or troublesome. Thus, if enantiotropic (occurring in more than one form) crystals are separated at a temperature above the transformation point, they may crumble to a powder of different melting point on being stored." (Technique of Organic Chemistry, vol. II p. 441, Arnold Weissberger, Ed., Interscience Pub., N. Y. 1956.)

"Sometimes a compound will crystallize in different modifications from different solvents. If the velocity of transformation of the unstable to the stable is very small, the two modifications may crystallize together from solution at an appropriate temperature. It is therefore extremely important to make sure that any sample whose physical constants are to be measured is a single modification and not a mixture of polymorphs" (ibid., p. 441).

3. BIOLOGICAL SUBSTANCES WHICH HAVE BEEN USEFUL IN MEDICAL TREATMENT DESPITE THEIR LACK OF UNIFORMITY AND/OR THE FACT THAT THEIR CHEMICAL COMPOSITION WAS UNKNOWN

(a) "Parathormone (the active hormone of the parathyroid glands which controls calcium metabolism) appears to be a peptide containing about 80 amino-acid residues, but its structure is not yet known exactly" (Starling, supra, p. 1427). It has been known since 1925 and used therapeutically since that time. The standard unit is based solely on the bioassay involving its effect of raising the plasma calcium concentration in dogs (ibid., p. 1427).

(b) All 6 hormones of the pituitary, many of which are used clinically, are analyzed only by biological or immunological assay. Some have not been isolated in pure form (ibid., p. 1432).

(c) The estrogens (female hormones) were used for about 25 years on the basis of bioassay alone before their structure was determined (ibid., p. 1471).

A sensitive test of progesterone is by bioassay, which detects one five billionth of a gram (ibid.).

(d) Vitamin B_{12} was used therapeutically in the form of raw liver and raw liver extracts for 23 years to save lives in the routinely fatal disease of pernicious anemia before it was isolated as a red crystalline substance (The Vitamins, supra, p. 397).

"The structure of vitamin B_{12} is not yet fully elucidated, and no synthesis of this vitamin has been accomplished" (ibid., p. 414).

"There are 5 clinically active constituents other than B_{12} in crude liver. It is optically active * * * its molecular weight was determined by the ebulliscopic (same as Krebiozen) method * * * exposure to sunlight decreases activity. * * *" (ibid., p. 400).

"In the light of present knowledge many more forms (of B_{12}) may exist" (ibid., p. 407–8).

"As the compound (B_{12}) was found in an industrial laboratory and proved to be of clinical value from the very beginning, it was only natural that it was practically available to the medical profession a short time after its isolation; 4 months after the first publication of the group around Karl Folkers, Merck & Co., Inc., announced at the meeting of the Hematological Society in Buffalo that crystalline Vitamin B_{12} was available for therapeutic purposes (August, 1948) (ibid., p. 417).

"Three sources of raw material may be considered as a starting point for the isolation of B_{12} as such or in the form of concentrates: 1. The mother liquors of the microbial formation of antibiotics like streptomycin, aureomycin, and terramycin, after the removal of the antibiotic.

2. Cultures of micro-organisms which produce B_{12} as the only valuable product, e.g., B. megatherium.

3. Activated sludge from sewage disposal (U.S. Patent). A concentration in the starting material of 1 to 2 millionths of a gram per cc. is considered worthwhile.

"Processes (for making B_{12}) center around U.S. Patents, 2,582,589; 2,563,794" (ibid.).

"The natural cobalt content of normal ingredients of the broth (for growing bacteria which make B_{12}) is very small. The addition of small amounts of cobalt salts to the broth increases the B_{12} production; the increase goes up 17 fold (above that obtained) without the addition of cobalt. The optimum concentration is about 2 parts per million of cobalt in the nutrient medium. Four parts per million already decreases the simultaneous production of streptomycin to nearly ¼'" (ibid., p. 420).

"About twenty U.S. patents protect methods of production and isolation of B_{12}, whereas the compound itself is protected in this country by a product claim defining B_{12} clearly by its absorption spectrum and biological activity. Merck & Co., Inc. leads the field by owning the product claim and the addition of cobalt to the fermentation nutrient" (ibid., p. 420).

"B_{12} has become one of the most important vitamins, therapeutically as well as economically * * * production in 1952 was 94 pounds and sales totaled 61 pounds with an estimated value of $13 to $14 million, the original price was $12,500 per gram" (ibid.).

4. THE RELATION BETWEEN KREBIOZEN AND KNOWN ANTICANCER SUBSTANCES PRODUCED BY RAY FUNGI

(a) The important antituberculosis antibiotic, streptomycin, is produced in the culture broth of one of the varieties of the ray fungus (actinomycetes). This fungus was first discovered in and isolated from the tumor of "lumpy jaw" in cattle. It is a sterile extract of this fungus which is injected into horses to cause them to elaborate the antitumor principle of Krebiozen.

(b) In addition to streptomycin, these fungi produce in their culture broth other antibiotics which have antitumor activity.

Thus, these known antitumor substances are analagous to Krebiozen. That is, they are produced by the reaction between the ray fungus and its broth environment; whereas Krebiozen is produced by a reaction between an extract of the ray fungus and the environment of the horse.

On pages 84–85 from Metabolic Inhibitors, edited by Hochster & Quastel, Academic Press, 1963,[1] it is stated, "Perhaps the most exciting aspect of antibiotic research today has to do with the isolation and characterization of those antibiotics which exhibit antitumor activity * * *."

Note that "there are now in various states of development more than 20 new products endowed with antitumor activity, which have resulted from the antibiotic programs supported by the Cancer Chemotherapy National Service Center of the National Cancer Institute during the past several years."

Well might we ask why the discovery of Drs. Durovic and Ivy is being held up, while research of their competitors also based on ray fungi activity is pushed with all possible speed.

"The structures of many of these agents (the antitumor antibiotics), like their mechanism of action, are unknown" (p. 85).

5. EXCERPT FROM METABOLIC INHIBITORS, EDITED BY HOCHSTER & QUASTEL, ACADEMIC PRESS, 1963, PAGES 84–96, OF SECTION BY E. J. MODEST, G. E. FOLEY, AND S. FARBER

"3. ANTITUMOR PROPERTIES

"Perhaps the most exciting aspect of antibiotics research today has to do with the isolation and characterization of those antibiotics which exhibit antitumor activity. Research in this area has expanded rapidly in recent years both in this country and abroad, as attested by the increasing number of reports describing new antibiotics exhibiting such activity. There are now some two dozen antibiotics which exhibit antitumor activity in experimental tumor systems (39), and at least six of these agents exhibit interesting activity in human neoplasia (33, 63). In addition, there are now in various stages of development more than 20 new products endowed with antitumor activity, which have resulted from the antibiotics programs supported by the Cancer Chemotherapy National Service Center of the National Cancer Institute during the past several years (64).

[1] See item 5 below for complete quotation.

"The structures of many of these agents, like their mechanisms of action, are unknown. Although antitumor activity is not peculiar to the polypeptide antibiotics (33, 39, 64, 65), those of most current interest in the chemotherapy of human neoplasia are the actinomycins. The available information concerning the mechanism of action of these polypeptide inhibitors already has been discussed. The chronological development and differentiation of the actinomycins has been reviewed elsewhere (33, 63).

"a. Actinomycin A. Actinomycin A was isolated by Waksman and Woodruff (20, 31, 32), but was considered to be too toxic to be useful as a chemotherapeutic agent. Stock (66) and Reilly et al. (67) reported slight inhibition of Sarcoma 180 in vivo, but only at toxic doses.

"b. Actinomycin C. Actinomycin C was isolated by Brockmann and Grubhofer (21) and has been studied extensively by Brockmann and his associates (39). Hackmann (68) described the carcinolytic effects of this agent in man in 1952, and it has since been studied extensively in a variety of experimental tumors (49, 69, 70).

"The most extensive experience in the chemotherapy of human neoplasia has been reported from European clinics. Actinomycin C is of most interest in the chemotherapy of Hodgkin's disease and other lymphomas (51, 63), although it is occasionally effective in other forms of neoplasia (71–73). Actinomycin C is a potent agent, an average, daily adult dose being only 50–100 μg. Its use in combination with X-irradiation has been reported to be more effective than either agent alone in the therapy of Hodgkin's disease (73–75).

"c. Actinomycin D. Actinomycin D (I) was isolated by Waksman and his colleagues (22), and is one component (actinomycin C_1) of actinomycin C (37–39, 41). Farber et al, first described its antitumor activity in experimental tumor systems (52, 76, 77) and in man (51, 63, 78, 79).

"Actinomycin D also is a potent agent, the usual daily dose in man being 60–75 μg/kg. Preliminary studies indicated that there was sufficient evidence of clinical improvement in a variety of human neoplasia to warrant extensive clinical trial against a spectrum of human tumors (63). Although marked clinical effects have been observed occasionally in a variety of human tumors, actinomycin D is most effective in the chemotherapy of the lymphomas and Wilms' tumors (51, 63, 71, 78–84). The effectiveness of actinomycin D also is potentiated by X-irradiation (51, 73, 78–80).

"d. Actinomycin F_1. Actinomycin F_1, a product of "directed" biosynthesis, was reported by Schmidt-Kastner (85), and its inhibitory activity in experimental tumor systems was described by Sugiura and Schmid (86), and Burchenal et al. (70).

"The activity of actinomycin F_1 in a variety of human neoplasia has been reported by Tan et al. (71). Its clinical usefulness and limitations in general appear to be similar to those of actinomycin C."

SPONTANEOUS REGRESSION OF CANCER: PRELIMINARY REPORT[1]

(Tilden C. Everson, M.D., Warren H. Cole, M.D., Chicago, Ill., From the Department of Surgery, University of Illinois College of Medicine)

"Spontaneous regression of cancer is a very intriguing and challenging phenomenon, which has been mentioned as a probability or fact by numerous writers in the field of oncology, but proof of its existence is difficult to obtain. Very few writers have ventured a statement relative to its frequency, but Bashford has estimated it occurs once in 100,000 cases of cancer and Boyers once in 80,000. Some authorities have expressed serious doubt that the phenomenon ever occurs.

"However, in recent years the publications of Dunphy, Stewart, and Morton and Morton, in particular, have suggested that on extremely rare occasions neoplastic disease may not continue its inexorable progressive course, but may undergo temporary or permanent spontaneous regression. Since the last collective review of possible cases of spontaneous regression of cancer was made by Rohdenburg in 1918 a comprehensive study of the incidence and nature of this phenomenon has been initiated by the authors with the support of the American Cancer Society.

"We have defined spontaneous regression of cancer as the partial or complete disappearance of a malignant tumor in the absence of all treatment, or in the presence of therapy which is considered inadequate to exert a significant influence on neoplastic disease. In general, this is the definition of spontaneous regression as proposed by Stewart. We do not imply that spontaneous regression need progress to complete disappearance of tumor, nor that spontaneous regression is synonymous with cure. In a few cases reported in this paper, tumor which underwent apparent spontaneous regression in one area flourished unchecked in other areas of the body or reappeared at a later time.

"Although over 600 cases of tumor regression published or obtained by personal communication have been reviewed, to date only 47 cases have been considered by us to have adequate documentation (including histologic confirmation of the malignancy of the primary or metastatic tumor) to accept as probable examples of spontaneous regression. However, for this preliminary report certain categories have been arbitrarily excluded from consideration. These include publications prior to 1900, certain types of tumor in which the consistency of diagnosis of malignancy is highly controversial (chorionepithelioma, epithelioma of skin, and lymphomas), tumors conceivably totally removed by curettage or biopsy, metastases diagnosed only by roentgenograms without biopsy, long surviving cases without specific evidence of decrease or disappearance of tumor, some foreign articles in which interpretation of certain salient points is difficult, and certain cases obtained by personal communication in which more information has been requested."

[1] Presented before the American Surgical Association, White Sulphur Springs, West Virginia, April 11, 1956.

Supported by grants from the American Cancer Society and the Illinois Federated Women's Clubs.

We wish to take this opportunity to thank numerous friends who have very generously contributed their time in sending abstracts of their cases, and given us consent to include them in this report.

(EXHIBIT 9)

EXCERPTS FROM LETTER GIVING HEW REPLY TO PROPOSAL THAT DR. IVY APPEAR BEFORE SECRET COMMITTEE

SEPTEMBER 10, 1963.

Hon. PAUL H. DOUGLAS,
U. S. Senate,
Washington, D.C.

DEAR SENATOR DOUGLAS: This will acknowledge your telegram of September 4 asking five questions concerning Krebiozen as an outgrowth of my letter of August 23 and our conversation of August 26. I am replying to your questions in the order in which they appear in your telegram.

* * * * *

Question 3. "Why should not the committee see and hear Dr. Ivy, whose scientific standing is unquestioned, for purposes of explanation and interrogation? We are not asking that he be made a member of the committee but we are asking that this committee have the benefit of a direct statement from him and be able to ask any question which in any way might perplex them. I believe this is essential in the cause of truth. He is ready to meet with the group and answer all questions. Why should he be judged unheard and unseen?"

The purpose of the study by the National Cancer Institute is to determine whether the medical records available justify a claim of benefit. Most of the records are not the records of Dr. Ivy or of the Krebiozen Foundation, but are the records of hospitals, laboratories, and private physicians, including pathological slides and X-ray films, secured by our representatives to supplement the inadequate records from Dr. Durovic and Dr. Ivy. These records do not require interpretation by Dr. Ivy. They are being independently and objectively evaluated. Dr. Ivy has no special knowledge of these additional records and his personal participation in such evaluation is neither necessary nor appropriate.

* * * * *

Sincerely yours,
/S/ Boisfeuillet Jones
BOISFEUILLET JONES,
Special Assistant to the Secretary, Health and Medical Affairs.

(EXHIBIT 10)

LETTER FROM HEW REFUSING ACCESS TO CASE RECORDS

OCTOBER 30, 1963.

Hon. PAUL H. DOUGLAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOUGLAS: Your letter of October 22, 1963, concerning the clinical records of persons treated with Krebiozen has been referred to this office for reply.

In obtaining the records on the 504 cases submitted by Drs. Ivy and Durovic, we did not ask and did not obtain permission to make them public. We therefore believe it would be improper to do so. Although we have no intention of destroying these records in the foreseeable future, we cannot undertake to make them available to other groups as you suggest.

The procedure followed in reviewing these records was designed with the sole objective of obtaining as skilled and impartial an evaluation as was humanly possible to obtain. We are completely satisfied that the procedure which we followed met this specification.

Sincerely yours,
WILLIAM H. STEWART, M.D.,
/S/ William H. Stewart
Assistant to Special Assistant to the Secretary, Health and Medical Affairs.

(EXHIBIT 11)

THE KREBIOZEN[2] THEORY AND ITS RECENT CONFIRMATIONS, OR ON THE PRESENCE OF AN "ANTI-CANCER SUBSTANCE" IN BLOOD SERUM AND BODY TISSUES

(By A. C. Ivy, Ph. D., M.D.)

THE THEORY

The body of the cancer patient sometimes displays the existence of local and general physiological mechanisms which produce a complete or partial regression or a prolonged arrest of the manifestations of malignant or cancerous disease. It should be possible, then, to discover how the body arrests the growth or "cures" itself of cancer, and to apply such knowledge to the treatment of the cancer patient.

Local tissue hormones, or chemical substances may exist inside or outside normal cells, particularly in the defensive system of cells (RES)[3] in the body and are concerned in the normal multiplication and cessation of multiplication of cells in the repair of an injury. Such a substance may also be concerned with the maturation or specialization of cells, since when a cell is dividing it is not performing specialized functions or the functions of a mature cell.

Stating the theory more simply, an "anticancer" substance or substances exist in the normal blood serum, and normal cells of the body. It should be possible to isolate this substance or these substances by appropriate chemical procedures and they should have an inhibitory or a destructive effect on the cells of spontaneous cancer in at least some types of cancer in animals and man, depending perhaps on their degree of malignancy or autochthonous nature.—Published March 1951, 1953, 1956, 1959, 1961.

HISTORICAL BACKGROUND OF THE THEORY

The historical background of the Krebiozen theory starts soon after the beginning of this century. An inhibitory

[2] From the classical Greek meaning "that which regulates growth."

[3] Reticuloendothelial System.

substance of cell multiplication was observed by the early users of the tissue culture technique, for example, by Champy (1). When this substance was removed the cells continued to multiply like primitive cells and did not mature.

In 1907, Reinke (1A) found a substance soluble in ether which inhibited mitotic (cell) division. In 1909, Askanazy (1B) made an observation similar to that of Reinke.

In 1910, two German scientists reported that a substance which cytolyzes cancer cells in vitro (tissue culture) was present in the blood of cancer-free patients but not in the blood of cancer patients (2,3,4). This cancer-cell dissolving substance was soluble in anesthetic ether (see Woglum, 1913, for a review; ref. 5).

In 1917–20, Ivy (6), working on cancer of the thyroid in dogs in Chicago which had "goiter" found that about 2 percent of the dogs with a goiter developed cancer of the thyroid which spread to the lungs. The cancerous cells in the lungs when suspended in a physiological saline solution and injected intravenously into 60 dogs would not take hold in the lungs and develop cancer there. This observation resulted in the theory that an "anticancer" substance exists in normal tissues and cancer develops and starts growing in distant tissues because the animal has too little anticancer substance to prevent the development of a cancer.

Such a theory was later supported by Alexis Carrel who in 1925 found an ether-soluble substance (vide supra) in blood serum which inhibited the growth of primitive connective tissue cells (7). This substance was then found in other tissues by Waterman (7A, B) and by Fichera (8). Between 1935 and 1947, *five different* groups of scientists found a substance in body fat which inhibited the production of cancer when potent cancer-producing chemicals were used (9–13,14).

In 1944, Ivy (15) started a study to isolate the growth stimulating and inhibiting substance in the liver. An anticancer substance was shown to be present in the liver in 1948 (16).

In 1946, Dr. Stevan Durovic (17) started working on the isolation of an anticancer substance from the blood serum of horses. In August 1949, Dr. Durovic presented to Dr. A. C. Ivy of Chicago protocols of experiments on dogs and cats (18) with cancer showing that he had obtained an "anticancer" substance. The substance was not toxic.

Dr. Ivy was sufficiently impressed to undertake a cooperative study with Dr. Durovic. From the results of an extensive series of experiments started in August 1949, it was found that the "anticancer" substance had no acute or accumulative toxicity. And, studies were started on patients with hopeless or advanced cancer. Since then the observations made on roughly 4,000 patients by some 3,000 physicians have been analyzed and presented in a report of some 890 pages and 200 tables and charts.

It was found by Doctors Dorothy Nelson and A. C. Ivy that Krebiozen retarded the onset of spontaneous cancer of the breast in C3H mice (14).

In 1956, a small book was published with the title of "Observations on Krebiozen in the Management of Cancer" (14). From time to time since 1951, the use of this "anticancer" substance has been referred to as a "new approach to the treatment of advanced cancer".

CONFIRMATION OF THE KREBIOZEN THEORY

The first evidence that the Krebiozen theory which Doctors Ivy and Durovic presented first in March 1951, was about to be seriously studied appeared in 1961, or 10 years later. Dr. Bardos of the University of Buffalo, and of the Roswell Memorial Institute, received a grant of $39,000 from the National Cancer Institute (NCI) to study the presence of a cancer inhibitory agent in normal body tissues. A publication of the results has not been found in the literature (19).

In April 1961, a new item indicated that Dr. E. D. McLaughlin (20) of the NCI had "isolated" or demonstrated the existence of an "anticancer" substance in the blood serum. In June 1961, P. A. Herbut, T. T. Tsaltus and W. H. Kremer of Jefferson Medical College, Philadelphia, found an "anticancer" substance in extracts of the liver (21). This confirmed the observations made in 1948–50 by Doctors Robert Denton and A. C. Ivy (16).

In April 1962, J. Fogh and B. Allen of the Sloan-Kettering Cancer Institute of New York City reported the "isolation" of an "anticancer" substance from normal cells in tissue culture (22. 24). Dr. Mary Stearns of Columbia University, New York City, reported in June 1962, the presence of an "anticancer" substance in normal tissues cell cultures which inhibited the growth of 19 different types of cancer cells (23).

In October 1962, E. D. McLaughlin (25) reported the presence of an "anticancer" substance in human blood serum which was higher in concentration in the serum of normal patients as compared to cancer patients.

In October 1962, Albert Szent-Gyorgyi of Woods Hole, Massachusetts, reported that he had extracted an "anticancer" substance from the thymus gland and other tissues of calves (26).

In April 1963, Fogh and Allen made a progress report on their prior work referred to above (24).

In June 1963, Szent-Gyorgyi (27) made a rather complete report indicating that his substance had an "anticancer" effect on three different types of cancers in mice.

Not one among these recent investigators has administered his "anticancer" product to patients with cancer.

REFERENCES

1. Champy. Loc. cit., Bayliss, Principles of General Physiology, London, P. 25, 1915.

1A. Reinke: Muench. Med. Wochschr 54:2381, 1907.

1B. Askanazy: Zentr. Allgem. Pathol. Anat. 20:1039, 1909.

2. Freund, E., and G. Kaminer: Biochem. Zeit. 26:312, 1910.

3. Neuberg, C.: Biochem. Zeit. 26:344, 1910.

4. Stern, K., and R. Willheim: "The Biochemistry of Malignant Disease", Reference Press, Brooklyn, 1943.

5. Woglum, W. H.: "The Study of Experimental Cancer. A Review", Columbia University Press, 1913.

6. Ivy, A. C.: The Biology of Cancer, Science 196:14, 1947.

7. Baker, L. E., A. Carrel: J. Exper. Med. 42:143, 1925.

7A. Waterman, N.: Biochem. Zeit. 188:65, 1927.

7B. Waterman, N.: Zeit. Krebsforschung 34:327, 1931.

8. Fischera, G.: "Tumori", Hoepli, Milano, 1933.

9. Watson, A. F.: Am. J. Cancer 25:753, 1935.

10. Peacock, P. R., and S. Beck: Brit. J. Exper. Path. 19:315, 1938.

11. Morton, J. J. and G. B. Mider: Proc. Soc. Exper. Biol. Med. 41:357, 1939.

12. Murphy, J. B. and E. Sturm: Cancer Research 1:477, 1941.

13. Dickens, F.: Brit. Med. Bull. 4:967, 1946–47.

14. Ivy, A. C., J. F. Pick, and W. F. P. Phillips: "Observations on Krebiozen in the Management of Cancer", Regnery Press, Chicago, 1956.

15. Ivy, A. C.: Students Theses, Northwestern Univ. and University of Illinois.

16. Ivy, A. C., and Robert Denton: Reports to Lakeland Foundation, Chicago, 1948–50.

17. Durovic, S.: Personal communication.

18. Ivy, A. C.: Personal Communication, "Action of Krebiozen on Tumors in Dogs and Cats", 1950. Unpublished, but submitted to NCI in 1961.

19. National Cancer Institute Grants-in-Aid, 1961, Bethesda, Md.: Bardos, Dr., University of Buffalo or Roswell Memorial Cancer Hospital, Buffalo; New Item.

20. McLaughlin, E. D.: National Cancer Institute, Bethesda, Md.

21. Herbut, P. A., T. T. Tsaltas and W. H. Kremer, J. A. M. A. 178: Nov. 18, 1961.

22. Fogh, J., and B. Allen: Fed. Proceedings, March-April, 1962, p. 159.

23. Stearns, Mary: Proceedings Tissue Culture Assoc., June 1962.

24. Fogh, J.: Proceedings Tissue Culture Assoc. June 1962.

25. McLaughlin, E. D.: Proceedings Am. College Surgeons, Oct. 1962.

26. Szent-Gyorgyi, Albert: National Acad. Sciences Sept. 1962 (N.Y. Times, Nov. 11, 1962).

27. Szent-Gyorgyi, Albert: Science June 28, 1963.

(EXHIBIT 12)

DOCUMENTS ON INCOME OF DR. DUROVIC

In answer to innuendoes of fraud, the attached documents show (photostatic copies available in Senator DOUGLAS' office):

(1) The producer was a wealthy man when he arrived in this country 14 years ago.

(2) Ever since his arrival, his adjusted gross income has shown a net loss each year. All of these losses were incurred in connection with the experimental work on Krebiozen.

(3) The Internal Revenue Service has audited his books, and in 1962 confirmed that he was then over $70,000 in debt.

(4) Krebiozen was distributed free for the first 6 years, and the majority of patients have received the drug without charge or at a very reduced charge.

(5) The Internal Revenue Service allowed a cost of $9.50 per ampule.

(6) The Canadian Government specifically granted to the producer the privilege of distributing the drug in Canada.

PRESS RELEASE

OCTOBER 23, 1963.

I, Dr. Stevan Durovic, wish to publicly answer the smear campaign which is currently being waged against me. Specifically it has been stated that I have been making a personal fortune as a result of the distribution of Krebiozen for the treatment of cancer.

This allegation is false and is calculated to discredit me and to divert attention from the main issue, which is, incredibly, whether or not the worth of this drug in the treatment of cancer should be tested at all by independent agencies.

Krebiozen was distributed during its first 6 years—from 1949 to 1954—at no charge. No compensation or contribution of any kind was either requested or accepted for this entire 6-year period. This fact was verified by the Krebiozen Investigating Commission of the 68th Illinois General Assembly of the State of Illinois which carried on its investigation into the Krebiozen controversy during the years 1953–54.

The Argentine firm which first produced Krebiozen had to sell its laboratory and was liquidated in 1959 because of enormous financial losses. As a result of this situation, I personally had to undertake the production of the drug in order to continue the experimental work with Krebiozen. Subsequently in 1960, under the name of Promak Laboratories, I produced two additional supplies of Krebiozen in the United States, which supply is at present almost exhausted.

Krebiozen was distributed to physicians for a voluntary compensation which was left entirely to the determination of the physician and his patient, the amount, however, not to exceed $9.50 per dose, which is the cost of the drug. The majority of the patients received the drug without charge or at very reduced amount, due to the fact that all Krebiozen patients were in advanced or terminal stages of cancer and generally had exhausted their financial means on previous other types of treatments.

I not only lost what personal funds I had but also incurred substantial debts in the distribution of Krebiozen in the United States. When I arrived in the United States in 1949, I had $190,000 cash in the Bank of London and South America, Ltd.—New York branch. This fact is verified by the enclosed letter of that bank.

Since my arrival in the United States my U.S. Individual Income Tax Returns have shown a net loss each year for adjusted gross income. Since I started individually to operate Promak Laboratories in 1960, my U.S. Individual Income Tax Returns for the calendar years 1960, 1961, and 1962 showed a net loss for adjusted gross income in the amounts of $115,237.06, $40,176.90 and $76,719.08 respectively. My books for the calendar year 1960 were audited and on September 20, 1962 I received a letter from the U.S. Treasury Department—Internal Revenue Service, Chicago office—approving my return as filed, a photocopy of this letter is attached. All of these losses were incurred in connection with the experimental work on Krebiozen.

In regard to the latest statement of the American Medical Association, which appeared in the press today, October 23, 1963, and which represents the sale of Krebiozen in Canada as illegal, I should like to point out the following:

The decision of the Department of National Health and Welfare of Canada, of October 6, 1954, file No. 960–D15–2/21, of which a photostatic copy is enclosed, is a Permit for the sale of Krebiozen under section C.01.302 of the regulations "to investigators, qualified to use such a drug, for the sole purpose of obtaining clinical and scientific data with respect to safety, stability, dosage or efficacy."

If it were not for the sales of Krebiozen in Canada and a few other countries, my losses for experimentation in the United States would have been such, that I would have been obliged to discontinue all scientific and experimental work on Krebiozen a long time ago.

Attachments:

1. Letter of Bank of London & South America, Ltd.—New York dated May 24, 1949.
2. 1962 Income Tax Return.
3. Letter of U.S. Treasury Department (Internal Revenue Service) dated September 20, 1962.
4. Letter of the Department of National Health and Welfare of Canada, dated October 6, 1954.

STEVAN DUROVIC, M.D.

BANK STATEMENT

Duplicate, Agency of Bank of London & South America Limited, 34 Wall Street, New York 5, May 24, 1949.

In your reply please refer to Dr. Stevan Durovic, New York.

DEAR SIR: In accordance with your verbal request, we confirm, by means of the present, that at the close of business on November 3, 1948, the balance of your current account was $190,000.—(One hundred ninety thousand dollars) in your favour.

Yours faithfully,

_____,
Sub-Agent.

EXCERPTS [1] FROM PHOTOSTATIC COPY OF U.S. INDIVIDUAL INCOME TAX RETURN, 1962, OF STEVAN DUROVIC, CHICAGO, ILL.—OCCUPATION: SCIENTIST

6. Business income (schedule C)	(36,542.18)
7. Net operating loss carryover—schedule attached	(40,176.90)
9. Total (add lines 4 through 8)	(76,719.08)

STEVAN DUROVIC.

U.S. TREASURY DEPARTMENT,
INTERNAL REVENUE SERVICE,
Chicago, Ill., September 20, 1962.

Dr. STEVAN DUROVIC,
900 Lake Shore Drive,
Chicago, Ill.

DEAR DR. DUROVIC:

Kind of tax, income.

Taxable year, 1960.

Our recent examination of your tax liability for the year indicated above discloses that no change is necessary to the tax reported. Accordingly, the return will be accepted as filed.

_____,
District Director.

DOMINION OF CANADA, DEPARTMENT OF NATIONAL HEALTH AND WELFARE,
Ottawa, October 6, 1954.

KREBIOZEN RESEARCH FOUNDATION, INC.
122 South Michigan Avenue,
Chicago, Ill.

Attention: Dr. Marko Durovic.

DEAR DR. DUROVIC: Mr. Lipschultz' visit to this department on September 29th helped to clear up several points concerning your material "Krebiozen". He asked that a letter be sent to you defining the present status of this drug in Canada.

You may sell this drug in Canada under section C.01.302 of the regulations "to investigators, qualified to use such a drug, for the sole purpose of obtaining clinical and scientific data with respect to safety, stability, dosage or efficacy, if

"(a) The Minister is first informed of the identifying name or mark by which the drug can be recognized,

"(b) Both the inner and the outer labels carry the statement 'For Experimental Use By Qualified Investigators Only',

"(c) The manufacturer, prior to making a shipment takes the necessary steps to ensure that any person to whom the drug is sold is a qualified investigator and that he has adequate facilities for the investigation to be conducted by him, and that such drug will be used solely by him or under his direction for the investigation, and

"(d) The manufacturer keeps accurate records of such distribution and makes these records available for inspection upon the request of an inspector."

These points have been explained fully to Mr. Lipschultz and he was in full agreement. It was pointed out that during this time evidence would be collected to qualify this material for status as a new drug under section C.01.301 of the regulations.

It is hoped that additional batches of Krebiozen will be prepared and that clinical and pharmacological data on the new batches will be submitted.

I am enclosing a copy of our trade information letter No. 116 which will explain more fully my letter.

Yours very truly,

C. A. MORRELL,
Director, Food and Drug Divisions.

[1] A photostatic copy of the income tax return of Dr. Durovic is available for inspection at the office of Senator DOUGLAS. These are the main entries showing loss for the year.

(EXHIBIT 13)

OFFERS OF DRUG COMPANIES TO BUY KREBIOZEN RIGHTS

ABBOTT LABORATORIES,
North Chicago, Ill., March 26, 1951.

Dr. STEVAN DUROVIC,
531 Kenilworth Avenue,
Kenilworth, Ill.

DEAR DOCTOR DUROVIC: This letter is to again confirm our interest in marketing the product which you have discovered for the treatment of malignancy.

Following our most recent conversation of last Friday and the open meeting with the clinicians which is to be held at the Drake Hotel today, we are looking forward to our discussion with you here tomorrow as to the more specific details of an arrangement covering our marketing of "Krebiozen."

As we informed you last Friday, Mr. Moore and Mr. Brainard have indicated that they believe that they have certain interests in the business aspects of this matter. Since we have not participated in any discussions between you and those gentlemen, we have not felt that we could add anything to your discussion with them. Mr. Moore informed us this morning that he and Mr. Brainard had a discussion with you yesterday evening, March 25, and that it appears likely that you and they will be able to reach a satisfactory conclusion.

We understand that there are some 200,000 ampoules of "Krebiozen" which may be sold. You have indicated that the price to us will be $8 an ampoule for this material. We are prepared to purchase these ampoules provided they are properly standardized and meet the specifications indicated by Dr. Ivy, and *that you* and your brother and anyone else involved will enter into a contract with Abbott Laboratories which will be mutually satisfactory in respect to the future manufacture of this product and other pertinent terms; all of this arrangement, of course, to be subject to the approval of our Board of Directors before having any legal effect.

Sincerely yours,

E. H. VOLWILER.

THE LILLY RESEARCH LABORATORIES,
Indianapolis, Ind.,
April 20, 1951.

Dr. STEVAN DUROVIC,
Palmolive Building,
919 North Michigan Avenue,
Chicago, Ill.

DEAR DR. DUROVIC: I have been out of town a good deal during the past week and it was not until today that we were able to have a discussion regarding the "Krebiozen" matter. In the meantime the director of our biological division, while in Washington, discussed with Dr. Workman the type of governmental control and regulation applicable to a product of this character.

After considering the matter from all angles, we are prepared to submit the following proposition, subject to the preparation and execution of a formal written agreement embodying the points outlined below and other provisions customarily and usually contained in our form of license agreement in general use.

1. We will pay to you or your nominee the sum of One Hundred Thousand Dollars ($100,000) in cash upon the execution of the contract.

2. Upon the execution of the contract, you will make a full and complete disclosure to us of all scientific and technical information within your knowledge pertaining to the chemical identity and structure of "Krebiozen" and methods, techniques and processes involved in the production, purification, standardization, and assay of "Krebiozen".

3. We will place in escrow with one of the well established Chicago banks (either the Continental Illinois, the Harris Trust or the Northern Trust, as you may elect) the further sum of One Million Dollars ($1,000,000) to be payable to you or to your nominee if and when "Krebiozen" is approved for sale by the National Institute of Health, is duly licensed by the National Institute of Health and is actually marketed by us.

4. You will file promptly patent applications covering "Krebiozen" (and its method of production) in the U.S. Patent Office and will file corresponding foreign patent applications in such countries as may be mutually agreed upon. The company will cooperate in the preparation, filing and prosecution of all such applications through its own patent attorneys, and will bear the expense thereof.

5. Under the contract the company will be granted the exclusive right to manufacture "Krebiozen", to make clinical studies thereof and to complete the evaluation of the product from a clinical and laboratory standpoint. Any improvements made by the company during the term of the contract, whether by way of synthesizing the material or the discovery of improved manufacturing, production or testing techniques, will be assigned to you or to your nominee. If deemed important, such improvements will be covered in patent applications filed by the company and such applications will be assigned to you or to your nominee.

6. The company will work closely with governmental authorities, will make such disclosures to governmental authorities as may be required by applicable law and regulations, but will not otherwise disclose any of the information concerning "Krebiozen" or its method of manufacture except to its own employees to such extent as may be necessary to the proper and efficient manufacturing thereof or except as may be necessary in connection with scientific publications and reporting.

7. If the tests conducted by the company conclusively demonstrate to the satisfaction of the company that "Krebiozen" is of value in the treatment of cancer and that the same may be manufactured and marketed on a basis profitable to it, the company will commence the marketing of "Krebiozen" as soon as it is permitted to do so by the National Institute of Health or by such other governmental agencies as may have jurisdiction in the premises. In this connection, the company will use its best efforts to obtain governmental approval as soon as the clinical reports on "Krebiozen" justify such approval.

8. The contract shall grant to the company and its subsidiaries the exclusive right thoroughout the world to manufacture and sell "Krebiozen" upon payment of:

a. The sum of One Million Dollars ($1,000,000), (deposited in escrow with one of the Chicago banks upon the execution of the contract) at the time of first marketing of "Krebiozen" by the company, as provided by paragraph 3, above.

b. Royalties upon its sales of "Krebiozen" at the following rates and for the periods indicated.

(1) 5 percent beginning with the first sale and ending upon the expiration of the patent, if the substance "Krebiozen" or its use in the treatment of cancer is covered by a valid U.S. patent.

(2) 2½ percent beginning with the first sale and continuing for 8 years, if no valid patents are issued upon the substance "Krebiozen" or its method of manufacture.

(3) 2½ percent beginning with the first sale and continuing for the life of the U.S. patent if the process of producing "Krebiozen" is covered by a valid U.S. patent, and no valid U.S. patent issues covering the product "Krebiozen" or its use in the treatment of cancer.

c. Royalties will be payable upon the company's net sales determined by deducting from gross sales all discounts to its customers, transportation charges, returns, allowances for defective or damaged material, and sales or excise taxes imposed directly upon the sale of the product by the company. Sales by the company to its subsidiaries, or by one subsidiary to another subsidiary would be exempt from royalties, but in such cases royalties would be payable on all final sales by subsidiaries to the drug trade on the basis of net export wholesale prices.

d. Royalties will be payable quarterly within thirty days following the close of each calendar quarter. Of the total sum of One Million Dollars ($1,000,000) payable pursuant to paragraph 8a. above, one-half thereof, or Five Hundred Thousand Dollars ($500,000) shall be treated as an advance in respect of future royalties. Accordingly there shall be withheld by the company from the total royalties payable under paragraph 8b. above, 50 percent of the amount payable in respect of each quarter, until such time as the aggregate amounts withheld equal the sum of Five Hundred Thousand Dollars ($500,000).

9. Royalties, to the extent that they are based upon the existence of a valid patent, will be discontinued in the event the patent is held invalid by an unappealed or an unappealable decision of a court of competent jurisdiction.

10. The company will have the right to grant sublicenses and in such event the royalties received by the company under such sublicenses will be divided equally between the company and you or your nominee.

11. Prior to the approval and licensing of "Krebiozen" by the National Institute

of Health, the company may, upon thirty days notice, cancel and terminate the contract if, in the opinion of the company, "Krebiozen" is not a valuable therapeutic agent useful in the treatment of cancer or if, in the opinion of the company, "Krebiozen" cannot be manufactured and marketed profitably by it. In the event of any such cancellation or termination, the company will notify the bank holding the escrow deposit and upon receiving such notice the bank will be authorized and directed to return to the company the total amount then held under the escrow agreement.

12. We anticipate that in addition to the technical information to be disclosed upon the execution of the contract, your personal assistance and consultation will be very helpful. Accordingly we would expect you to spend such time as might be necessary at our biological laboratories to assist us in the manufacture of "Krebiozen" and in this connection we would agree to pay you a reasonable per diem plus living expenses during periods devoted to such consultation and assistance.

In the foregoing points, no mention has been made of the 200,000 ampoules, more or less, now owned by you. After reviewing the law and regulations it seems quite questionable whether this material could be lawfully sold to anyone. Apparently "Krebiozen" is a biological product and obviously it has not been manufactured in an establishment holding a biological license from the National Institutes of Health. Under these circumstances we question whether any of this material can be sold.

In this connection we would suggest that in the event you are interested in negotiating a contract along the lines set forth in this letter, a provision might be included whereby such quantities of the 200,000 ampoules as we might deem necessary for additional clinical or laboratory evaluation might be made available to us at the rate of $7.26 per ampoule.

Of course it would be necessary to elaborate the conditions of the escrow arrangement, and in all probability it would be desirable to prepare an escrow agreement separate from the license agreement.

The license agreement should contain a provision whereby we are protected against any claims that might be asserted by Brainard and Moore or others claiming any rights in the product.

No attempt has been made in this letter to cover all of the provisions in the type of licensing contract which we have in general use. Moreover, even the specific points mentioned in this letter may involve controversial questions when it comes to the language to be employed in the preparation of the contract.

If you are not interested in negotiating a contract along the lines suggested above, it occurs to us that the following alternative might afford some basis for a satisfactory arrangement. As you know we maintain a biological establishment which is licensed by the National Institute of Health. At that establishment we have horses, treatment and bleeding facilities and laboratory equipment of the type commonly used in the manufacture of biological products. It is entirely possible, subject to the approval of the National Institute of Health, that we could work out an arrangement with you whereby a portion of the facilities at our biological laboratories could be set aside for you for the purpose of enabling you to begin promptly the manufacture of "Krebiozen" for your own account, at least for a limited period of time. We would be in a position to supply horses and equipment and I believe we could make arrangements so that you would be assured of any degree of security that you might desire in connection with production. Of course an arrangement of this sort would contemplate that after a given period of time we would have the first option to negotiate with you for a license.

We are enclosing two additional copies of this letter in order that you may refer them to your associates for their consideration. We hope that it will be possible for you to give prompt consideration to these proposals and advise us of your conclusions as promptly as possible. If you desire that we send representatives to meet with you in Chicago, we shall be glad to do so.

Very truly yours,

A. H. FISKE.

(EXHIBIT 14)

PRESS RELEASE OF FDA, SEPTEMBER 7, 1963

U.S. DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
OFFICE OF THE SECRETARY,
Washington, D.C.

RESULTS OF ANALYSIS OF "KREBIOZEN"

The Food and Drug Administration has identified the "Krebiozen" powder given to its inspector by Dr. Stevan Durovic and Dr. Andrew C. Ivy on July 12, 1963, as creatine. Creatine is an amino acid derivative plentifully available from meat in the ordinary diet and is a normal constituent of the human body. It is readily available as an inexpensive laboratory chemical.

The identification of "Krebiozen" resulted from the analysis of the powder by several scientific methods. This was undertaken under the supervision of Dr. Frank H. Wiley, director of FDA's Division of Pharmaceutical Chemistry.

The first step was the reexamination of the infrared spectrogram supplied by Dr. Durovic to the National Cancer Institute in September 1961 and the infrared spectrograms made by the National Cancer Institute from the small samples (1.5 mg. of powder and 5 mg. of crystalline material) supplied to it at the same time. These curves were all quite similar. On the basis of these tracings, the Division's Spectrophotometric Unit, under the direction of Mrs. Aima Hayden, attempted to identify the material from which the tracings were made. They duplicated the curve submitted by Dr. Durovic by using a sample of creatine hydrate. The curve obtained by the National Cancer Institute on the powdered material was that of creatine which had absorbed a small amount of moisture.

The second step was to do a considerable amount of work on creatine obtained in pure form from chemical supply houses. This creatine was examined by infrared spectrophotometry, by X-ray diffraction to study its crystal structure, by microscopic study of the crystals, and by mass spectrographic methods, preliminary to opening the vial containing the material supplied by Dr. Durovic and Dr. Ivy on July 12, 1963, and described as "Krebiozen."

The third step was the examination and identification of the contents of that vial. To supplement the evidence to be obtained by infrared methods, the Food and Drug Administration enlisted the aid of other of its scientists and experts from other Federal agencies and from universities:

Microscopic Crystallography: William Eisenberg and Arnold Schultze, Division of Microbiology, FDA; Dr. Raymond Castle, University of New Mexico.

X-ray Crystallography: Miss Mary Mrose of the Geological Survey, Department of Interior; Dr. William Bradley, University of Texas.

MASS SPECTROGRAPHIC STUDIES

Joseph Damico, Division of Food, FDA; Dr. Klaus Biemann, Massachusetts Institute of Technology.

In addition, the Food and Drug Administration asked Dr. Ellis R. Lippincott of the University of Maryland to work on the infrared studies. Representatives of the National Cancer Institute and the Division of Biologics Standards of NIH, the Geological Survey, and the National Bureau of Standards also assisted the FDA's Bureau of Biological and Physical Sciences.

The small sample (approximately 2 mg.) was weighed and divided. An infrared spectral curve was made. This "fingerprinted" the material Dr. Durovic had supplied. It was creatine. This was then converted to creatinine, to which creatine changes when treated with hydrochloric acid. The converted product was identified by spectral curve as creatinine. Only creatine could have produced the creatinine by the treatment used. X-ray diffraction studies next confirmed the creatine identity. Crystallographic studies established that the powder was creatine. Mass spectrographic studies, conducted at Massachusetts Institute of Technology, established that the material was either creatine or creatinine. All of these tests leave no doubt as to the identity of the powder Dr. Durovic labeled "Krebiozen."

Creatine is in muscle tissue, and in blood in lesser amounts. The human body will produce in 24 hours as much as 100,000 times the amount of creatine as the alleged content of "Krebiozen" in one ampule. The chemical was tested some time ago against animal tumors in the routine cancer chemotherapy screening program of the National Cancer Institute. It was found to be ineffective even in very high doses.

Laboratory studies are continuing to determine how much, if any, of this substance can be dissolved in mineral oil and how much, if any, is in the ampules of "Krebiozen" which FDA has obtained.

FDA is continuing its investigations of all of the facts regarding "Krebiozen."

PRESS RELEASE OF NCI, OCTOBER 16, 1963

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF THE SECRETARY,
Washington, D.C.

The Department of Health, Education, and Welfare today released a report from the director of the National Cancer Institute concerning his decision not to undertake clinical testing of Krebiozen.

The statement was accompanied by a report from the committee of cancer experts which reviewed the records of 504 patients treated with Krebiozen. The committee unanimously recommended against clinical testing of Krebiozen.

OCTOBER 15, 1963.

To: The Secretary.
Through: The Surgeon General and the Director, National Institutes of Health.
From: The Director, National Cancer Institute.
Subject: Clinical Trial of "Krebiozen" Under National Cancer Institute Sponsorship.

In mid-August of this year, I appointed a committee to review clinical records on patients treated with "Krebiozen" and to recommend whether or not the National Cancer Institute should sponsor a clinical trial of "Krebiozen." The committee has been engaged in an extensive study of clinical records, microscopic slides, X-rays, and other records of these patients and has now completed its study and submitted a report to me. A copy of the report is attached.

The committee is unanimous in its conclusion that "Krebiozen" is ineffective as an anticancer drug and strongly recommends that no clinical trial be undertaken.

On the basis of this report, the findings of the Food and Drug Administration that "Krebiozen" is creatine and my own study of the extensive data previously submitted by Doctors Ivy and Durovic, I concur in the committee's findings and have determined that the National Cancer Institute will not sponsor or participate in a clinical trial of "Krebiozen."

As with any other potentially experimental drug, clinical trial of "Krebiozen" would have to be justified on one of three grounds. "Krebiozen" does not qualify on any one of the three.

The first basis upon which a drug might be considered for clinical trial is theoretical. The proponents of "Krebiozen" have advanced the theory that "Krebiozen" is a tissue hormone which inhibits the multiplication of cancer cells. The Food and Drug Administration has demonstrated that "Krebiozen" is not a tissue hormone but rather creatine, a normal component of the human body concerned primarily with muscle contraction.

The second basis for a clinical trial, and the one upon which most are based, is that the drug must possess consistently strong anticancer activity in experimental animals. "Krebiozen" does not qualify on these grounds.

The third basis is the accidental discovery that a drug has anticancer activity in human beings. If "Krebiozen" had been shown to possess such activity despite the failure to satisfy the other two justifications for trial, I would have been prepared to sponsor a controlled clinical trial after appropriate animal toxicity study and the development of a procedure for the control of the identity of the substance.

The committee's report of the 504 case records clearly establishes that "Krebiozen" does not possess any anticancer activity in man.

The National Cancer Institute has completed its consideration of "Krebiozen." There is no justification for a clinical trial, and from a scientific standpoint we regard the case closed.

REPORT OF THE REVIEW COMMITTEE—EVALUATION OF KREBIOZEN CLINICAL RECORDS

Committee Membership: The committee was chosen by the director of the National Cancer Institute to review all available records concerning a selected group of patients treated with Krebiozen. The committee was charged with determining, on the basis of an analysis of these clinical records, whether Krebiozen should be recommended for further clinical trial. All of the committee members have had extensive experience in the clinical problems of cancer, in particular experimental cancer chemotherapeutics, and represented the disciplines of surgery, internal medicine, pathology, radiotherapy, and endocrinology. Since a large number of breast cancer cases were submitted, several of the participants were selected because of their special interest and knowledge of this disease. The committee was composed of the following members:

Dr. Fred Ansfield, associate professor of surgery, Cancer Research Division, Department of Surgery, University of Wisconsin Medical School, Madison, Wis.

Dr. Harry Bisel, director, Pennsylvania Division, American Cancer Society, assistant professor of medicine, University of Pittsburgh, School of Medicine, Pittsburgh, Pa.

Dr. Kirkland C. Brace, Radiation Branch, National Cancer Institute.

Dr. Frank Dietrich, professor of medicine, University of Tennessee, School of Medicine, Chief, Medical Service, Kennedy Veterans Administration Hospital, Memphis, Tenn.

Dr. George C. Escher, associate member, Sloan-Kettering Institute for Cancer Research, associate attending physician, Memorial Hospital for Cancer and Allied Diseases, New York, N.Y.

Dr. Emil Frei, III, associate scientific director for Experimental Therapeutics, chief, Medicine Branch, National Cancer Institute.

Dr. David Grob, assistant dean, professor of medicine, State University of New York, College of Medicine, director of medical services, Maimonides Hospital, Brooklyn, N.Y.

Dr. Thomas Hall, senior consultant in oncology, Lemuel Shattuck Hospital, associate physician, Children's Cancer Research Foundation, Boston, Mass.

Dr. Donald Kayhoe, head, Medical Groups Section, Clinical Branch, Collaborative Research, National Cancer Institute.

Dr. Alfred Ketcham, chief, Surgery Branch, National Cancer Institute.

Dr. Lyndon E. Lee, Jr., associate director, Research Service, coordinator, Research in Surgery, Veterans Administration, Washington, D.C.

Dr. Mortimer Lipsett, assistant chief, Endocrinology Branch, National Cancer Institute.

Dr. Gregory O'Conor, Laboratory of Pathology, National Cancer Institute.

Dr. Kenneth Olson, professor of medicine, Albany Medical College, Albany, N.Y.

Dr. Albert H. Owens, Jr., associate professor of medicine, Johns Hopkins Medical School, director, Medical Oncology Unit, Baltimore City Hospitals, Baltimore, Md.

Dr. Robert Ravdin, associate professor of surgery, University of Pennsylvania Medical School, Codirector Neoplastic Chemotherapy Clinic, University of Pennsylvania Hospital, Philadelphia, Pa.

Dr. Juan A. del Regato, director, Penrose Cancer Hospital, Colorado Springs, Colo.

Dr. Shirley Rivers, research associate, Cancer Chemotherapy, Veterans Administration Hospital, associate in medicine, Emory University School of Medicine, Atlanta, Ga.

Dr. Albert Segaloff, professor of clinical medicine, Tulane University School of Medicine, director of endocrine research, Alton Ochsner Medical Foundation, New Orleans, La.

Dr. Bruce Shnider, associate professor of medicine, Georgetown University School of Medicine, director of Tumor Service and Cancer Chemotherapy Research Program, Georgetown Medical Division, D.C. General Hospital, Washington, D.C.

Dr. Jesse Steinfeld, associate professor of medicine, director, Cancer Chemotherapy Program, University of Southern California, School of Medicine, Los Angeles, Calif.

Dr. Grant Taylor, chief, Section of Pediatrics, University of Texas, M. D. Anderson Hospital and Tumor Institute, Houston, Tex.

Dr. T. Phillip Waalkes, associate director for Collaborative Research, National Cancer Institute.

Mr. Emanuel Landau, statistical consultant, National Cancer Institute.

REVIEW DATA

The Krebiozen Research Foundation had selected 504 of its case records of the more than 4,000 patients treated with Krebiozen. These records consisted primarily of forms prepared by the Krebiozen Research Foundation and returned at intervals to the foundation by the practitioner who administered the Krebiozen. Copies of laboratory, X-ray, and pathology reports were included occasionally but not usually. The foundation often added a case summary of its own with comments on the chronological course and with conclusions regarding the efficacy of Krebiozen. Information

widely distributed by the Krebiozen Research Foundation regarding tumor type and response rate in 4,227 patients (1962 report) was also available.

Because the material provided by the Krebiozen Research Foundation was inadequate for scientific evaluation, the FDA undertook the collection of complete medical records of all the cases submitted by the foundation. This involved for each patient, whenever possible:

(1) Copies of hospital and doctors' records; laboratory, pathological, X-ray, surgical, and autopsy reports; and death certificates.

(2) Pathology slide preparations.

(3) X-rays.

(4) Report of interviews with all physicians involved in caring for the patient.

(5) Report of interviews with living patients.

(6) Report of interviews with relatives and friends of patients.

A regional representative of the FDA personally conducted each interview and, following a specific protocol, sought answers to a comprehensive group of questions.

REVIEW PROCEDURE

Working with this total information on each patient, a committee member, using a 13-page worksheet, tabulated all pertinent data with particular emphasis on factors related to objective measures for evaluation. The committee member then rated each case in terms of objective regression and subjective response.

In addition to individual evaluation, each case was reviewed either by the entire committee or by a subcommittee following the scheme diagrammed below:

(Diagram omitted because of rules governing printing of the RECORD.)

EVALUATION STANDARDS

The most important criterion necessary to assess the effectiveness of a specific cancer therapy is the presence of measurable disease. Most frequently used are tumor masses, either directly accessible or clearly outlined on X-ray film, which can be followed and serially measured during the course of treatment. However, because of the importance given to subjective improvement attributed to Krebiozen, e.g., pain relief, the exact role and significance of subjective changes seen during therapeutic trials should be understood. The use of subjective response in evaluating the effectiveness of an agent without reference to objective regression is treacherous. In clinical trials of antitumor agents conducted by experienced investigators, subjective response is recorded and evaluated but is considered important only if paralleled by objective improvement. In addition, the majority of such patients are receiving drugs for the control of symptoms. Moreover, the administration of any new agent almost invariably improves the patient's outlook and hope for some period of time.

A. OBJECTIVE CRITERIA

Three categories were used in determining the final status of each patient:

1. Objective regression: A significant regression of a proven neoplasm occurring while the patient was receiving Krebiozen as the only antitumor agent. In accordance with nationally accepted criteria, tumor regression is considered significant if a 50 percent or greater decrease in the product of measured diameters occurs. At the same time, no new lesions should appear, nor should tumor growth progress elsewhere. The vast majority of the cases did not have serial measurements recorded. In such instances the practitioner's statement of definite tumor decrease was accepted and the patient was classified as showing an objective regression unless contrary evidence existed in the clinical records to indicate that the other criteria had not been met.

2. No regression: An absence of significant objective regression, as defined above, while the patient was receiving Krebiozen as the only antitumor therapy.

3. Inadequate test situation: A broad category of conditions in which some feature of the case made an objective evaluation of Krebiozen impossible.

a. Concurrent or immediately prior antitumor therapy.

b. No histologic diagnosis of cancer.

c. No residual cancer (following previous therapy) upon initiation of Krebiozen treatment.

d. Other, e.g. inadequate data.

In each of the above four situations, no decisions regarding the efficacy of Krebiozen can be made. For example, with concurrent therapy, a specific treatment of demonstrated value, it is impossible to distinguish between the effects of Krebiozen and the other modalities of therapy whether the patient's tumor progresses, remains static, or regresses. In some instances such treatment known to exert antitumor effects over a 6 to 8 week period was given immediately before Krebiozen administration. Such cases were placed in the "Inadequate test situation" category.

B. SUBJECTIVE CRITERIA

In considering subjective effects, a number of factors including degree of disability, pain, narcotic requirement, and other symptoms such as nausea, vomiting, dyspnea, and vertigo were considered. These were evaluated in light of concurrent and prior specific, symptomatic and supportive therapies, e.g., blood transfusions, oxygen, narcotics, and antiemetics. In no instance was subjective improvement alone considered evidence of an objective remission.

FINDINGS

A. Objective.

Of the total 504 cases, 288 fulfilled the necessary conditions so that the effects of Krebiozen could be evaluated. The remaining 216 fell in the "Inadequate test situation" category. Of the latter, 101 had had concurrent antitumor therapy, 50 had no histologic diagnosis of cancer, 49 had no residual malignancy at the time Krebiozen was started, and for 16 the data were inadequate.

Of the former 288 cases, 273 when evaluated, on the basis of the criteria indicated above, showed no significant regression.

Two of the remaining 15 patients were considered to meet the criteria for objective regression. Patient 68 had an abdominal mass which at the time of surgery was determined by frozen section to be a malignancy. The exact type could not be classified and permanent sections were not obtained for a more definitive diagnosis. Consequently, the committee could not be certain of the nature of the disease in this case. Following the operation in 1951 the patient received X-ray therapy and thereafter was treated with Krebiozen. As of the latest report the patient was apparently living and well. Patient 183 had an adenocarcinoma of the stomach which regressed. The diagnosis was made from a biopsy obtained at surgery in August of 1954. The patient was treated with five injections of Krebiozen over a 4-week period in September 1954. No other therapy was given. Subsequent abdominal surgery in May 1956 for suspected gall bladder disease disclosed no evidence of carcinoma.

For the remaining 13 patients, although included as regressions, doubts existed as to whether or not they should be considered in this category. The matter was complicated because the tumor changes for some were of a very equivocal nature and there were questions concerning the actual amount of decrease in tumor size, the true validity of the measurements or statements given, and the precise status of the disease. Inadequate documentation often made accurate assessment difficult. Nevertheless, the committee classified the 13 patients as regressions despite the obscure conditions. The attached table A is presented to give a clearer picture of the disease status of each one of the 15 patients and to indicate the problems surrounding the objective evaluation of the 13 questionable cases.

In three instances, patients 72, 157, and 143, the tumor regression was of very short duration and followed by death due to metastatic disease. The latter fact indicates that although regression was noted in one anatomic site, the disease was progressing simultaneously in other areas. Essentially the same is true for patient 51, whose records show that while the lung nodules due to a hypernephroma decreased, metastatic involvement of the central nervous system became apparent and persisted during Krebiozen administration. It should be noted that the pulmonary lesions of a hypernephroma may become smaller on occasion even though no specific antitumor therapy is given.

Of the 13 patients, 4 had breast cancer. Patient 149 had a reported metastatic tumor growth in the fundus of one eye. This small lesion regressed during the period she received Krebiozen. Periodically within the same time interval, the patient was also given hormonal agents which are known to produce objective regression in breast cancer. The exact dates she received these latter materials were not recorded but their administration might logically be considered concurrent therapy.

Upon examination of the histologic slides of the tumor of patient 449 by expert pathologists, the diagnosis was made

of a rare type of breast tumor which in all known instances had never metastasized. In addition, this patient and patient 141 as well had biopsies taken of their tumor masses during Krebiozen treatment. Such excisions alone, by actual measurement, could have been a factor in the recorded regression. Patient 362 is reported to have had a complete regression of a breast cancer, although the duration of the regression and actual onset of disease is not documented.

Patient 425 had a fibrosarcoma, grade I. The malignant potential of this tumor is considered highly uncertain.

Patient 308 had a neuroblastoma partially resected at the age of 5 months. Several reports in the medical literature substantiate the fact that this malignancy, particularly in patients under one year of age, may spontaneously regress or change to a benign tumor.

Patient 145 had histologically documented melanoma of the face in 1946 and of the elbow in 1951 which were excised. Krebiozen was administered in 1951 for an unbiopsied nodule of the leg which disappeared. Patient 439 also had a melanoma and received Krebiozen seven years after the original diagnosis. Krebiozen therapy was continued for 21 months until the patient died with widely metastatic disease.

Patient 177 died of metastatic cancer 1 year and 9 months following Krebiozen therapy. No X-rays or radiologists' reports were available for review to verify the disappearance of the mediastinal metastasis reported to have occurred while the patient was receiving Krebiozen.

B. Subjective.

Of the 421 patients who could be evaluated on the basis of subjective symptoms, 44 patients showed subjective improvement. However, as previously pointed out, the use of subjective response in evaluating the effectiveness of an agent without reference to objective regression is extremely unreliable in assessing the true status of malignant disease.

C. Toxicity.

The administration of the ampuled Krebiozen was associated with definite toxic effects in 35 cases. In most instances only induration and inflamatory granulomas at the injection sites were noted. In some cases the pain associated with these lesions necessitated discontinuance of further injections. Abscesses or sloughs occurred in six patients. There was little evidence of systemic toxicity, although one patient who died with broncho-pneumonia was found to have lipid deposits scattered through the lungs, heart, liver, and spleen, possibly due to the large amount of mineral oil administered.

CONCLUSION

On the basis of data reviewed and objective criteria employed to assess antitumor response, it is the unanimous opinion of the review committee that Krebiozen is ineffective as an antitumor agent. In a very small number of patients, tumor regressions of varying degrees were seen during Krebiozen treatment. The validity of the majority of these regressions is subject to question for several different reasons. It is the opinion of the committee that the nature, degree, and number of effects noted are what one might expect in any large random sample of cancer patients. The committee strongly recommends that no clinical trial of Krebiozen be undertaken.

TABLE A.—*Patients evidencing tumor regression while on Krebiozen*

Patient	Age when Krebiozen started	Sex	Diagnosis	Reported tumor regression		Comments
				Character	Duration	
51	69	Female	Hypernephroma	Decrease in size of pulmonary metastases.	5 months	After tumor regression, pulmonary metastases again increased in size while the patient was still on Krebiozen. Signs of CNS metastases appeared about the time Krebiozen was started and persisted with varying severity until the patient's death, said to be due to cerebral hemorrhage or embolus. It could not be determined whether autopsy was performed. The clinical picture suggests that while regression occurred in the lung masses, metastatic disease was progressing in the CNS. In addition, pulmonary lesions of hypernephroma are known to decrease in size on occasion even though specific therapy has not been given.
68	12	Male	Grade IV malignant intra-abdominal neoplasm of undetermined primary site.	More than 50 percent decrease in tumor mass on multiple occasions while on Krebiozen.	June 1951 to present	The exact type of tumor represented by this case was never determined. Only frozen sections were obtained and no permanent slides prepared. Consequently, the Committee could not assess the true nature of the disease. Postoperatively the patient received X-ray therapy and thereafter was given Krebiozen. At the last report the patient was living and apparently well.
72	21	Female	Fibrosarcoma left sacrum.	More than 50 percent decrease in mass of tumor in 2 areas.	10 days	16 cubic centimeters of Krebiozen was given over a 10-day period, during which tumor regression was noted. The patient died on 10th treatment day of metastatic disease. The rapid decline and death of the patient due to cancer, despite regression of the tumor masses, suggest that malignant disease was progressing elsewhere.
141	55	do	Adenocarcinoma of breast.	Complete regression	1 year	The patient was said to have been free of disease for 1 year. A number of areas, including the breast mass, were biopsied during the period of Krebiozen therapy. The possibility must be considered that such biopsies may have been a factor in the recorded decrease in tumor size. A chest X-ray during the period of complete regression revealed a suspicious pulmonary infiltrate suggesting that tumor growth was occurring in the lung. The patient died, probably while on Krebiozen, 5 years after diagnosis.
143	47	Male	Adenocarcinoma of colon.	More than 50 percent decrease in palpable abdominal mass.	2 months	During the 4 months following the regression, the tumor mass again increased in size, although Krebiozen therapy was continued. The patient died shortly thereafter.
145	44	Female	Malignant melanoma of face.	Module on lower extremity disappeared.	Disease diagnosed in 1946. Krebiozen given August 1951. Patient living at last report.	The patient had histologically documented melanoma of the face in 1946 and of the elbow in 1951. She was given 5 cubic centimeters of Krebiozen from August to November 1951 for a nonbiopsied lesion of the lower extremity, consequently the exact nature of the nodule is unknown. This disappeared. She received multiple courses of I^{131} before and after Krebiozen. This latter therapy with I^{131} is of questionable value.
149	44	Female	Infiltrating duct cell carcinoma of breast with lymph node metastases.	Disappearance of metastatic lesions in fundus of the eye and retinal reattachment.	3 months	The patient with metastatic breast cancer was bedridden and blind with a detached retina and metastases in the fundus when Krebiozen was started. The patient received steroids and ACTH as well as Krebiozen and died 7 months after initiation of Krebiozen therapy, apparently from carcinomatosis. The possibility that the hormonal agents may have been a factor in the regression noted must be considered.
157	51	Male	Teratocarcinoma	Disappearance of pulmonary metastases.	8 weeks	Following a brief regression, pulmonary metastases reappeared. Increasing doses of Krebiozen had no effect. Transient regression followed repeated courses of radiotherapy but the patient died of progressive disease.
177	34	do	Seminoma	Mediastinal metastasis said to have disappeared.	1 year	Disease recurred and the patient died of metastatic cancer 1 year 9 months following completion of Krebiozen therapy. No X-rays or radiologist's reports were available for review.

TABLE A.—*Patients evidencing tumor regression while on Krebiozen*—Continued

Patient	Age when Krebiozen started	Sex	Diagnosis	Reported tumor regression		Comments
				Character	Duration	
183	38	....do....	Adenocarcinoma, stomach.	Complete regression	Diagnosis 1954, Krebiozen 1954, living and well at present time.	Inoperable adenocarcinoma of stomach was found in 1954. No tumor was found at reexploration in 1956.
303	(?)	Female	Neuroblastoma, retroperitoneal.	Complete regression of recurrent abdominal disease and metastatic disease.	1962 to present	This female infant had an 80 to 90-percent resection of a neuroblastoma at age 5 months. With the appearance of abdominal recurrence, supraclavicular and mediastinal metastases, Krebiozen was started in March 1962 and by September 1962 there was no evidence of disease. It should be noted that in patients under 1 year of age this malignancy on occasion regresses or changes to a benign tumor.
362	67	....do....	Scirrhous adenocarcinoma of breast.	Complete regression	(?)	Cancer, first symptomatic in (?) 1949, was diagnosed in 1957. The patient had no therapy before Krebiozen which was given in 1958 over the 7-month period during which complete disappearance of the mass was said to occur. The duration of remission is unknown although the patient died 8 months after completion of Krebiozen therapy 18 months after diagnosis.
425	36	....do....	Fibrosarcoma Grade I of thigh.	Complete disappearance of 4- by 4 inch lesion, left thigh.	Diagnosis 1944. Last Krebiozen December 1954. Living at last report.	After multiple surgical procedures and courses of irradiation between 1944 and 1952 the patient presented in 1953 with a lesion on the thigh which was not biopsied. The exact nature of the lesion here is unknown. If a fibrosarcoma grade I, it would be of questionable malignant character. During the period of Krebiozen administration, the lesion disappeared leaving only a defect in the area.
439	42	....do....	Malignant melanoma of lower extremity.	Lesion on lower extremity said to have disappeared.	Months	Melanoma initially treated in 1945, continued to recur despite excisional and X-ray therapy until 1952 when Krebiozen was started. Krebiozen therapy was continued for 21 months until the patient died with widely metastatic disease. Apparently the tumor was a very slow growing malignancy. Nevertheless, the question arises whether or not progression was occurring elsewhere at the same time regression was noted for the lower extremity lesion.
449	70	....do....	Adenoid cystic carcinoma of breast.	More than 50 percent reduction in tumor size reported.	Living from time of diagnosis in 1958 to present.	Following a year of Krebiozen therapy, 2 biopsies of the lesion were made: 1 measured 3 by 2.8 by 1.8 centimeters; the other 4.5 by 4 by 2.5 centimeters. Such large biopsies could well have accounted for a very substantial decrease in tumor mass. The original mass size was reported as 10 by 16 centimeters. Upon further review, the specimen was felt to represent an adenoid cystic carcinoma, an extremely uncommon lesion which, in the experience of the Armed Forces Institute of Pathology, has not been observed to metastasize.

[1] 11 months.

APPENDIX

Table 1 shows the distribution of the 504 cases according to primary site with a breakdown into categories for evaluation as determined by the review committee.

Table 2 indicates the number of objective regressions for those primary sites containing 10 or more patients who fulfilled the requirements for an adequate test situation.[1] For comparison, the total number of patients treated with Krebiozen as of the 1962 report is shown for the same sites.

Table 3 is the same as table 2 but for primary sites of less than 10 acceptable test patients.

[1] All patients were included in this category unless the nature of the experimental conditions made an objective evaluation of Krebiozen impossible as stated under "Inadequate test situation" on page 6.

TABLE 1.—*Distribution of Krebiozen cases by primary tumor site and test situation*

Primary tumor site	Number submitted	Adequate test situation	Inadequate test situation				
			Total	Concurrent therapy	No pathological diagnosis of cancer	No residual cancer	Other
Total	504	288	216	101	50	49	16
Brain and cord, primary	17	6	11	4	4	3	0
Breast	180	93	87	39	12	9	7
Cervix uteri	6	3	3	0	0	2	1
Colon	49	33	16	3	3	10	0
Duodenum and small intestine	2	1	1	0	0	1	0
Esophagus	1	0	1	0	0	1	0
Gallbladder	1	0	1	0	1	0	0
Head and neck	6	3	3	1	1	1	0
Kidney; ureter	10	6	4	1	0	2	0
Larynx	2	1	1	0	0	1	1
Liver and bile ducts	5	5	0	0	0	0	0
Lung; bronchus	22	19	3	0	1	2	0
Nasopharynx	6	6	0	0	0	0	0
Ovary [1]	19	11	8	6	1	1	0
Pancreas	15	10	5	1	4	0	0
Prostate	11	2	9	7	2	0	0
Rectum	23	20	3	0	3	0	0
Salivary glands	2	2	0	0	0	0	0
Stomach	24	12	12	1	5	5	1
Testes	6	5	1	1	0	0	0
Thyroid	3	1	2	0	0	2	0
Tongue	3	3	0	0	0	0	0
Urinary bladder	10	6	4	2	0	2	0
Uterus	8	6	2	0	0	2	0
Vagina; vulva	2	1	1	0	0	1	0
Undetermined site	20	11	9	3	4	1	1
Hodgkin's	2	0	2	2	0	0	0
Lymphosarcoma	2	1	1	1	0	0	0
Melanoma	8	6	2	1	0	1	0
Osteogenic sarcoma; bone; spine	12	8	4	3	1	0	0
Sarcomas—Soft tissue	7	1	6	1	0	1	4

See footnotes at end of table.

TABLE 1.—*Distribution of Krebiozen cases by primary tumor site and test situation*—Continued

Primary tumor site	Number submitted	Adequate test situation	Inadequate test situation				
			Total	Concurrent therapy	No pathological diagnosis of cancer	No residual cancer	Other
Acute myelocyticleukemia	2	0	2	2	0	0	0
Miscellaneous abdominal malignancies [2]	3	3	0	0	0	0	0
Mediastinum, undifferentiated	1	1	0	0	0	0	0
Miscellaneous skin cancers [3]	2	1	1	1	0	0	0
Neuroblastoma	3	1	2	1	0	1	0
Number of established diagnoses of malignancies	9	0	9	0	8	0	1

[1] One of these cases was shown at autopsy to be metastatic carcinoma from the breast.
[2] Includes mesothelioma, neurofibrosarcoma, and sympathicoblastoma.
[3] Includes 1 patient with epidermoid cancer of hand, and 1 with squamous cell cancer of penis.

TABLE 2.—*Objective regression category (for selected primary tumor sites—Large samples)*

Primary tumor site [1]	Number of patients					Primary tumor site [1]	Number of patients				
	Total [2] treated	Total submitted by Krebiozen Foundation	Fulfilled adequate test situation				Total [2] treated	Total submitted by Krebiozen Foundation	Fulfilled adequate test situation		
			Total [3]	No objective regression	Objective regression				Total [3]	No objective regression	Objective regression
Breast	870	180	93	89	4	Pancreas	177	15	10	10	0
Colon	463	49	33	32	1	Rectum	237	23	20	20	0
Lung	340	22	19	19	0	Stomach	286	24	12	11	1
Ovary	228	19	11	11	0	Undetermined site	102	20	11	10	1

[1] For sites with 10 or more cases fulfilling the requirements for an adequate test situation.
[2] Source: "Report on Krebiozen, an Agent for the Treatment of Cancer, 1962," Krebiozen Research Foundation, table 1, p. 9.
[3] As determined by Review Committee in present study of 504 cases.

TABLE 3.—*Objective regression category (for selected primary tumor sites—small samples)*

Primary [1] tumor site	Number of patients					Primary [1] tumor site	Number of patients				
	Total [2] treated	Total submitted by Krebiozen Foundation	Fulfilled adequate test situation				Total [2] treated	Total submitted by Krebiozen Foundation	Fulfilled adequate test situation		
			Total [3]	No objective regression	Objective regression				Total [3]	No objective regression	Objective regression
Osteogenic sarcoma	23	12	8	7	1	Salivary glands	21	2	2	2	0
Brain [4]	178	17	6	6	0	Duodenum and small intestines	19	2	1	1	0
Kidney, ureter	116	10	6	5	1	Larynx	26	2	1	1	0
Nasopharynx	48	6	6	6	0	Thyroid	18	3	1	1	0
Urinary bladder	107	10	6	6	0	Vagina; vulva	10	2	1	1	0
Uterus	71	8	6	6	0	Lymphosarcoma	44	2	1	1	0
Melanoma	115	8	6	4	2	Sarcomas	115	7	1	0	1
Liver and bile duct	62	5	5	5	0	Neuroblastoma [5]	----------	3	1	0	1
Testes	31	6	5	5	0	Miscellaneous skin [5]	----------	2	1	1	0
Cervix uteri	147	6	3	3	0	Mediastinum undifferentiated [5]	----------	1	1	1	0
Miscellaneous abdominal [5] malignancy	----------	3	3	3	0						
Prostate	130	11	2	2	0						

[1] For sites with less than 10 cases fulfilling the requirements for an adequate test situation.
[2] Source: "Report on Krebiozen, An Agent for the Treatment of Cancer, 1962," table 1, p. 9.
[3] As determined by Review Committee in present study of 504 cases.
[4] Includes brain and cord, primary, and brain metastases.
[5] Not listed in 1962 report.

(EXHIBIT 15)

BEHIND THE CAMPAIGN AGAINST KREBIOZEN

The influence of the American Medical Association upon Government health agencies is immense, because inevitably they must largely depend upon the 180,000 medical doctors of the country for answers to medical questions, and the AMA is the only organization which speaks for, or claims to speak for, all these doctors.

It is alleged by no less than five persons testifying under oath at the Illinois Legislative hearings on Krebiozen, that at the time of the million dollar offers, in personal conversations with the treasurer of the AMA he made clear to them that he was trying to take away financial control of Krebiozen from the Durovics, and that he would have the drug smeared and suppressed by the AMA if he were refused control of Krebiozen.

These allegations have been widely published in Herbert Bailey's books about Krebiozen, and he states in his books that they have never been denied in or out of court.

About 6 months after the million dollar offers, the AMA issued its "status report" on 100 proved cancer cases treated with Krebiozen, and this report has served ever since as the backbone of all opposition to Krebiozen.

Of these 100 cases 77 were so close to death when Krebiozen treatment was begun that 40 received only 2 injections and the other 37 received only 4 injections of Krebiozen.

The report also omitted all mention of objective cancer regression recorded in the medical records of 18 patients; and on the basis of its survey covering only a few weeks to a few months, the report characterized all of the 100 patients as dead or dying.

However, of the 23 remaining patients, 10 of these were alive and well and appeared in person before the Illinois Legislative Commission on Krebiozen in 1954, and 7 of them are still alive and well today in December 1963, as follows:

Alive in 1954: Mrs. Julian Howard, Mrs. Cecile Luebkemann, Mrs. Catherine Firnsthal, Irene O. Kibby, A. M. Howard, Eleanor Gahan, Helen Arndt, Magda Johansen, Evelyn Vogel, Irene R. Pietrowicz.

Alive in December 1963: Mrs. Julian Howard, 2429 West Berenice Street, Chicago; Mrs. Cecile Luebkemann, 6439 Newgaard Street, Chicago; Irene O. Kibby, 2021 West 73rd Court, Elmwood Park,

Ill.; A. M. Howard, 9410 North Monticello Street, Skokie, Ill.; Eleanor Gahan, 1619 Garfield Boulevard, Chicago; Magda Johansen, 3810 North Troy Street, Chicago, now in Norway; Evelyn Vogel, 1820 West Nelson Street, Chicago.

Note.—Mrs. Firnsthal died at age 84.

The FDA and NCI condemnations of Krebiozen on September 7 and October 16 may have been timed just to precede the combined AMA–FDA Quackery Congress of October 25, 26, 1963, all expenses of which were paid by the AMA, and at which AMA president Annis denounced Krebiozen as "one of the greatest frauds of the 20th century." (AMA News, November 11, 1963).

THE CALENDAR

Mr. MANSFIELD. Mr. President, with the concurrence of the Senate, I ask the Senate to turn to the consideration of measures on the calendar to which there is no objection.

Mr. MORSE. Mr. President, will the Senator turn to Calendar No. 614, H.R. 6001?

Mr. CASE. Mr. President, is this by unanimous consent?

Mr. MANSFIELD. Yes; the request has been honored.

Mr. MORSE. Mr. President, as the Senator knows, I had a "hold" order on Calendar No. 614.

CONVEYANCE TO WAUKEGAN PORT DISTRICT, ILLINOIS, OF CERTAIN REAL PROPERTY OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 614, H.R. 6001.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 6001) to authorize the conveyance to Waukegan Port District, Illinois, of certain real property of the United States.

Mr. MORSE. Mr. President, as the majority leader knows, I had a "hold" order on the bill until I could complete an analysis of the bill with respect to its compliance with the Morse formula. I am pleased to say that to the supporters of the bill that, in my judgment, the bill does not violate the Morse formula, for the following reasons:

H.R. 6001 would authorize the gratuitous conveyance of a 0.53-acre tract of Federal land by the Secretary of the Army to the Waukegan, Ill., port district.

The facts underlying this proposed conveyance are somewhat complicated, but at the root of the proposed conveyance is a gratuitous transfer of land that was made by the city of Waukegan to the United States in 1880 covering approximately 5.2 acres of land on the shore of Lake Michigan. A harbor was constructed in the area, and as a result of this construction, land was added to the 5.2-acre tract by accretion.

In 1926, part of the accreted area was conveyed to Waukegan by the United States for $1,000 plus a gratuitous conveyance by Illinois to the United States of another tract of land. The 0.53-acre parcel is the remaining portion of the land conveyed by Illinois to the United States as part of the 1926 transaction.

A question concerning the possible application of the Morse formula is involved, because the conveyance proposed under H.R. 6001 is gratuitous.

Although the facts relating to these land transactions are complex, a careful analysis discloses that the 0.53-acre tract has a direct relationship to the gratuitously conveyed original 5.2 acres of land, and the accretions thereon. It is important to reiterate that the 5.2-acre parcel was donated to the United States in 1880 by the city of Waukegan. That being the case, and in view of the further assurance of Acting Secretary of the Army Ailes, appearing at page 4 of Senate Report No. 637, that there is no need for Federal retention of the 0.53 acre tract, no violation of the Morse formula would occur under this bill. The case falls within the implied reversion doctrine of the Roseburg Veterans' Administration land transfer case which was discussed in volume 102 of the CONGRESSIONAL RECORD, part 7, page 9323.

The report discloses improvements by way of two steel bulkheads costing $42,500 and $22,800, respectively—Report No. 637, page 2. Obviously, these installations involve no market value; in fact, they represent negative values to the United States.

If the United States continues to maintain them, the maintenance cost alone for 1 year would be far in excess of the market value.

At the present time, they require maintenance and annual costs of maintenance to the United States. The obligation of maintenance and the cost incident thereto would be assumed, under the specific language of H.R. 6001 by the port district.

That is another reason for taking the case out from under the Morse formula.

Also, it should be noted, that if the 0.53 acre should cease to be used for public harbor purposes, it would revert to the United States.

Mr. President, inasmuch as no violation of the Morse formula is presented under this bill, I join in urging favorable action thereon.

Mr. MANSFIELD. I thank the Senator from Oregon.

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

There being no objection, the bill (H.R. 6001) was considered, ordered to a third reading, was read the third time, and passed.

AMENDMENT TO UNITED NATIONS PARTICIPATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 656, Senate bill 949.

There being no objection, the Senate proceeded to consider the bill (S. 949) to amend the United Nations Participation Act, as amended (63 Stat. 734–736), which had been reported from the Committee on Foreign Relations, with an amendment, on page 4, after line 18, to strike out:

SEC. 3. Such Act is hereby amended by inserting after section 8 the following new section:

"SEC. 9. The President may, under such regulations as he shall prescribe and notwithstanding the provisions of sections 1765 and 3648 of the Revised Statutes, as amended (5 U.S.C. 70; 31 U.S.C. 529), grant certain officers having important representation responsibilities as determined by the representative of the United States to the United Nations, an allowance adequate to defray the additional housing costs necessitated by such representational responsibilities during the period such officer is assigned for duty in the continental United States as a member of the United States Mission to the United Nations."

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 subsections (a), (b), and (d) of the United Nations Participation Act of 1945, as amended by Public Law 341, Eighty-first Congress, October 10, 1949, are hereby further amended to read as follows:

"(a) The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the United Nations who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary and shall hold office at the pleasure of the President. Such representative shall represent the United States in the Security Council of the United Nations and may serve ex officio as representative of the United States in any organ, commission, or other body of the United Nations other than specialized agencies of the United Nations, and shall perform such other functions in connection with the participation of the United States in the United Nations as the President may, from time to time direct.

"(b) The President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament). Such persons shall serve at the pleasure of the President and subject to the direction of the representative of the United States to the United Nations. They shall, at the direction of the representative of the United States to the United Nations, represent the United States in any organ, commission, or other body of the United Nations, including the Security Council, the Economic and Social Council, and the Trusteeship Council, and perform such other functions as the representative of the United States is authorized to perform in connection with the participation of the United States in the United Nations. Any deputy representative or any other officer holding office at the time the provisions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended.

"(d) The President may also appoint from time to time such other persons as he may deem necessary to represent the United States in organs and agencies of the United Nations. The President may, without the advice and consent of the Senate, designate any officer of the United States to act without additional compensation as the representative of the United States in either the Economic and Social Council or the Trusteeship Council (1) at any specified session thereof where the position is vacant or in the absence or disability of the regular representative or (2) in connection with a specified subject matter at any specified session of either such Council in lieu of the regular representative. The President may

designate any officer of the Department of State, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States in the Security Council of the United Nations in the absence or disability of the representatives provided for under section 2 (a) and (b) or in lieu of such representatives in connection with a specified subject matter."

SEC. 2. Section 2 of such Act is hereby further amended by redesignating subsections (e) and (f) to be subsections (f) and (g), respectively, and by adding after subsection (d) the following new subsection:

"(e) The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the European Office of the United Nations with appropriate rank and status who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such person shall, at the direction of the Secretary of State, represent the United States at the European Office of the United Nations, and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State may, from time to time, direct."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. SALTONSTALL. Mr. President, as acting minority leader, I would suggest that, for a bill of this character, a part of the report or an explanation of the bill should be in the RECORD.

Mr. MANSFIELD. The Senator from Massachusetts has anticipated the unanimous consent request I was about to make; namely, that portions of the reports or other statements as necessary may be printed in explanation of the legislation considered.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 676), explaining the purposes of the bill.

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

PURPOSE OF THE BILL

The main purpose of the bill is: (1) to enable the principal U.S. representative to the United Nations to assign duties to his colleagues on a somewhat more flexible basis than at present; and (2) to provide statutory authority for the existing position of the U.S. representative to the European office of the United Nations.

PROVISIONS OF THE BILL

The first section of the bill, while rewriting subsections (a), (b), and (d) of section 2 of the basic act, makes few changes of substance in existing law. There is no provision for any additional personnel; neither is there any diminution whatsoever of the current requirement for Senate confirmation of the officials concerned. Specifically, in view of wholly erroneous charges which have been circulated among the public, it should be stressed that any U.S. representative serving on a United Nations body concerned with nuclear energy or disarmament would have received his appointment by and with the advice and consent of the Senate.

Under existing law, of the five top members of the U.S. mission, only three may represent this country in the Security Council, and only the main U.S. representative and his first deputy may represent the United States both in the Security Council and in "any organ, commission, or other body of the United Nations other than specialized agencies * * *." The major substantive effect of the first section of the bill would be to permit the use of the five top officials as a group of interchangeable representatives. This alteration is justified by the fact that several important United Nations meetings normally are occurring simultaneously. Moreover, frequently an issue with which a particular representative is most familiar may be considered in several forums, in one or more of which the official might not be able to represent us at present.

The second section of the bill would provide statutory authority for the position of the U.S representative to the European office of the United Nations in Geneva. The President would be authorized to designate that official's rank and status; the appointment would be subject to Senate confirmation; and the appointee would also represent the United States in connection with other international organization activities at Geneva at the discretion of the Secretary of State. The present occupant of the post (Roger Tubby) has the rank of Ambassador by Presidential appointment, but—in the absence of statutory authority—has salary and status lower than the position would warrant.

The United States has had a mission to the United Nations European Office in Geneva since 1949. Fifty-eight other countries currently have permanent missions in that city, and about half of them are headed by persons with ambassadorial rank. Altogether, 116 public and private international organizations now have their headquarters in Geneva, and 57 have branch offices there. Regularization of the position of a senior U.S. diplomatic official in connection with international organization affairs at Geneva should promote better coordination, direction, and representation of our activities.

Mr. MANSFIELD subsequently said: Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the remaining measures on the calendar be considered in sequence.

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

CERTAIN BASIC AUTHORITY FOR U.S. INFORMATION AGENCY

The Senate proceeded to consider the bill (S. 2213) to provide certain basic authority for the U.S. Information Agency, which had been reported from the Committee on Foreign Relations, with an amendment on page 4, after line 12, to strike out:

SEC. 3. In any contracts for the use of international radio stations and facilities, the Director may, notwithstanding the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), include agreement on behalf of the United States to indemnify the owners and operators of said radio stations and facilities from such funds as may be thereafter appropriated for the purpose against loss or damage on account of injury to persons or property arising from such use of said radio stations and facilities.

And, in lieu thereof, to insert:

SEC. 3. (a) Notwithstanding the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), any contract for the use of international radio stations and facilities may provide, with the approval of the Director, that the United States will indemnify the owners and operators of said radio stations and facilities from such funds as may be thereafter appropriated for the purpose against either or both of the following, but only to the extent that they may arise out of the direct performance of the contract and to the extent not compensated by insurance or otherwise:

(1) Claims (including reasonable expenses of litigation or settlement) by third persons for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(2) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(b) A contract, made under subsection (a), that provides for indemnification must also provide for—

(1) notice to the United States of any claim or suit against the contractor for the death, bodily injury, or loss of or damage to property; and

(2) control of or assistance in the defense by the United States, at its election, of that suit or claim.

(c) No payment may be made under subsection (a) unless the Director certifies that the amount is just and reasonable.

(d) Each contractor which is a party to an indemnification agreement under subsection (a) shall have and maintain financial protection of such type and in such amounts as the Director shall require to cover liability to third persons and loss of or damage to property.

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 the Director of the United States Information Agency (hereinafter referred to as the "Director" and the "Agency", respectively) may—

(a) employ, without regard to the civil service and classification laws, aliens abroad for services in the United States relating to the translation or narration of colloquial speech in foreign languages when suitably qualified United States citizens are not available (such aliens to be investigated for such employment in accordance with procedures established by the Secretary of State and the Attorney General). Such persons may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for such time and under such conditions and procedures as may be established by the Secretary of State and the Attorney General;

(b) pay travel expenses of aliens employed abroad for service in the United States and their dependents to and from the United States;

(c) incur expenses for entertainment within the United States within such amounts as may be provided for in appropriation Acts;

(d) obtain insurance on official motor vehicles operated by the Agency in foreign countries, and pay the expenses incident thereto;

(e) pay claims to any persons, in amounts not to exceed $15,000 each in the manner authorized in section 2734, as amended, of title 10, of the United States Code when such claims arise in foreign countries, as though the Director were the Secretary of a military department and as though officers and employees of the Agency were commissioned officers and members of the Armed Forces;

(f) advance funds within the meaning of section 3648 of the Revised Statutes, as amended;

(g) employ aliens by contract for services abroad;

(h) provide ice and drinking water abroad;

(i) pay excise taxes on negotiable instruments abroad;

(j) pay the actual expense of preparing and transporting to their former homes the remains of persons, not United States Government employees, who may die away from their homes while participating in Agency activities;

(k) rent or lease, for periods of less than ten years, offices, buildings, grounds, and living quarters for persons engaged in Agency activities abroad;

(l) maintain, improve, and repair properties used for information activities in foreign countries;

(m) furnish fuel, water, and utilities for Government owned or leased property abroad;

(n) pay travel expenses of employees attending official international conferences, without regard to the Standardized Government Travel Regulations and to the rates of per diem allowances in lieu of subsistence expenses under the Travel Expense Act of 1949, as amended (5 U.S.C. 835–842), but at rates not in excess of comparable allowances approved for such conferences by the Secretary of State.

SEC. 2. Appropriated funds made available to the Agency for any fiscal year for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and transportation of personal effects, household goods, or automobiles of such personnel shall be available for all such expenses in connection with travel or transportation which begins in that fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed until the following fiscal year.

SEC. 3. (a) Notwithstanding the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), any contract for the use of international radio stations and facilities may provide, with the approval of the Director, that the United States will indemnify the owners and operators of said radio stations and facilities from such funds as may be thereafter appropriated for the purpose against either or both of the following, but only to the extent that they may arise out of the direct performance of the contract and to the extent not compensated by insurance or otherwise:

(1) Claims (including reasonable expenses of litigation or settlement) by third persons for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(2) Loss of or damage to property of the contractor from a risk that the contract defines as unusualy hazardous.

(b) A contract, made under subsection (a), that provides for indemnification must also provide for—

(1) notice to the United States of any claim or suit against the contractor for the death, bodily injury, or loss of or damage to property; and

(2) control of or assistance in the defense by the United States, at its election, of that suit or claim.

(c) No payment may be made under subsection (a) unless the Director certifies that the amount is just and reasonable.

(d) Each contractor which is a party to an indemnification agreement under subsection (a) shall have and maintain financial protection of such type and in such amounts as the Director shall require to cover liability to third persons and loss of or damage to property.

SEC. 4. The Director may appoint or assign Foreign Service Reserve officers for service with the Agency for such periods as he may determine, without regard to the provisions of section 522 of the Act of August 13, 1946, as amended (22 U.S.C. 922).

SEC. 5. Appropriations are hereby authorized for the purposes of this Act and such appropriations may be made without fiscal year limitation.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 677), explaining the purposes of the bill.

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

1. MAIN PURPOSE OF THE BILL

The primary objective of S. 2213 is to supply basic legislative authority to support certain items which have been included in past acts providing appropriations for the U.S. Information Agency (USIA). In the absence of such authority, any item concerned may be stricken from an appropriation bill if a point of order is raised against it.

* * * * *

3. PROVISIONS OF THE BILL

Except for section 3, which is discussed below, the provisions of S. 2213 are explained in the appendix accompanying this report. Several provisions which deal with an expansion of authority USIA has had in the past are also discussed below.

Section 3 of the bill, as proposed by the executive branch, related to indemnification of owners and operators of international radio stations and facilities. The authority requested by USIA in this regard was virtually identical to language which has regularly been carried in acts appropriating funds for the Agency since 1953. No claims have been made or paid pursuant to the indemnification provision carried in prior USIA appropriation acts. At the present time, the only contract in effect with an indemnification clause is one the Agency has with the National Broadcasting Co. relative to the operation and maintenance of a radio facility in Bound Brook, N.J.

In connection with its examination of the proposed section 3, the committee decided it would be best to make the indemnification authority substantially similar to basic authority now possessed by the military departments (10 U.S.C. 2354). Section 3(a) specifies that any contract for the use of international radio stations and facilities may provide, with the approval of the Director of USIA, that the United States will indemnify the owners and operators of the stations and facilities against certain loss or damage arising out of the direct performance of the contract and to the extent the loss or damage is not covered by insurance or otherwise. The indemnification coverage extends to (1) claims (including reasonable expenses of litigation or settlement) by third persons for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous, and (2) loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous. Indemnification pursuant to section 3 is subject, in the final analysis, to such funds as may be thereafter appropriated for the purpose. Under section 3(b) a contract providing for indemnification must also provide for (1) notice to the United States of any claim or suit against the contractor for the death, bodily injury, or loss of or damage to property, and (2) control of or assistance in the defense by the United States, at its election, of that suit or claim. And before any indemnification payment may be made, the USIA Director must certify that the amount is just and reasonable (sec. 3(c)).

Pursuant to section 3(d), each party to an indemnification agreement must maintain financial protection of such type and in such amounts as the USIA Director may require to cover liability to third persons and loss of or damage to property. One witness appearing before the committee expressed concern that the Agency's present indemnification authority might result in having a competitive effect upon private insurance carriers. The committee believes that USIA will exercise diligence and care to avoid such a result.

In the following respects, S. 2213 would expand the Agency's existing authority.

For the purpose of promoting and maintaining friendly relations with peoples abroad, the Director of USIA would be authorized by section 1(e) of the bill to pay meritorious claims against the Agency arising overseas. Such claims may not exceed $15,000, and the authority granted would parallel that contained in the Military Claims Act (10 U.S.C. 2734). Past appropriation acts have accorded USIA claims authority equal to that of the administrative settlement authority of the domestic Tort Claims Act which USIA has felt has hampered the Agency by imposing upon it a virtually impossible requirement of claims settlement "in accordance with the laws of the place where the act or omission occurred."

Section 1(k) of the bill would enable USIA to rent or lease, for a maximum period of 10 years, offices, buildings, grounds, and living quarters for persons engaged in Agency activities abroad. Present law limits rentals for leases to 5 years, and the 10-year term would place USIA on the same footing as the Department of State and the Agency for International Development, thus making it possible for the three agencies to standardize their rental and leasing practices.

In addition, section 1(k) would have the effect of permitting the Agency to rent or lease living quarters not only for its own officers and employees overseas—as it currently can do—but also, when circumstances require, for binational center grantees and contractor personnel engaged in USIA activities abroad who encounter difficulties in securing housing. In certain countries, particularly in Africa, housing is available only on payment of several years' rent in advance, and in many cases only on extensive renovation of quarters. Government housing provided for an individual pursuant to section 1(k) will be in lieu of the quarters allowance he would otherwise receive.

Section 4 of the bill would authorize the appointment or assignment to the Agency of Foreign Service Reserve officers without regard to the 10-year statutory limitation on tenure contained in section 522 of the Foreign Service Act of 1946, as amended. USIA has no authority to make appointments to the Foreign Service Officer Corps which is the career officer category for the Foreign Service. It does have, however, authority to make Foreign Service Reserve appointments, and appropriations acts have regularly included a yearly extension of these appointments in order that the Agency might retain senior Reserve officers who have served more than 10 years. The authority in section 4 would eliminate the possibility of a point of order being raised against these annual extensions.

4. CONCLUSION

The annual cost to the U.S. Government of this legislation is expected to approximate $5,000 a year resulting from the settlement of meritorious claims.

The committee believes S. 2213, by providing a firm base of substantive authority for various USIA activities, will remove uncertainties and facilitate the Agency's performance of its administrative and other tasks. Most provisions in the bill deal with matters for which money has been appropriated in the past, and the new authorities granted seem reasonable. Therefore, the committee recommends Senate passage of S. 2213.

Mr. MANSFIELD subsequently said: Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

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

The motion to table was agreed to.

ESTABLISHMENT OF FEDERAL AGRICULTURAL SERVICES TO GUAM

The bill (S. 692) to establish Federal agricultural services to Guam, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to establish and maintain an agricultural program in Guam which will include such programs administered by the United States Department of Agriculture, hereinafter referred to as "Department", as are determined by the Secretary will promote the welfare of that island. This authority may be exercised without regard to section 25(b) of the Organic Act of Guam (64 Stat. 390; 48 U.S.C. 1421c(b)), or any other provision of law under which Guam may have been excluded from such programs. The Secretary is authorized to provide for such modification of any such programs extended to Guam as he deems necessary in order to adapt it to the needs of Guam. The program authorized by this section shall be developed in cooperation with the territorial government of Guam and shall be covered by a memorandum of understanding agreed to by the territorial government and the Department. The Secretary may also utilize the agencies, facilities, and employees of the Department, and may cooperate with other public agencies and with private organizations and individuals in Guam and elsewhere: *Provided,* That the number of employees of the United States Department of Agriculture stationed on Guam to carry out the purpose of this Act shall not exceed five at any one time.

SEC. 2. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. The moneys appropriated in pursuance of this Act shall also be available for the purchase and rental of land, the construction or acquisition of buildings, for the equipment and maintenance of such buildings, and such other expenditures as may be necessary to carry out the purposes of this Act. Sums appropriated in pursuance of this Act shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to the Department, and may be allocated to such agencies of the Department as are concerned with the administration of the program in Guam.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 678), explaining the purposes of the bill.

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

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 692), to establish Federal agricultural services to Guam, and for other purposes, having considered the same, report thereon with a recommendation that it do pass without amendment.

This bill is identical to S. 2121, which passed the Senate June 25, 1962, too late to be acted upon by the House of Representatives. It would authorize the Secretary of Agriculture to establish an agricultural program for Guam under a memorandum of understanding with the territorial government of Guam. Any program of the Department of Agriculture which would promote the welfare of Guam could be included in the program with any appropriate modification. The primary need is for technical assistance. The number of USDA employees stationed on Guam under the act at any one time would be limited to five.

The bill would carry out the recommendations of a Department survey group report made in March 1958; and is more fully explained in the attached request of the Department of Agriculture for this legislation.

FOOTHILLS PARKWAY, TENNESSEE

The bill (S. 2218) to authorize the Secretary of the Interior to accept the transfer of certain national forest lands in Cocke County, Tenn., for purposes of the Foothills Parkway, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to transfer to the jurisdiction of the Secretary of the Interior, who is hereby authorized to accept such transfer, not to exceed three hundred and sixty acres of national forest land in Cocke County, Tennessee, now part of the Cherokee National Forest, located within and adjacent to the right-of-way for section 8A of the Foothills Parkway between Tennessee Highway Numbered 32 and the Pigeon River.

Upon publication in the Federal Register of an order of transfer by the Secretary of Agriculture, the lands so transferred shall be a part of the Great Smoky Mountains National Park and available for the scenic parkway as authorized by the Act of February 22, 1944 (58 Stat. 19; 16 U.S.C. 403h–11).

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 679), explaining the purposes of the bill.

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

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 2218), to authorize the Secretary of the Interior to accept the transfer of certain national forest lands in Cocke County, Tenn., for purposes of the Foothills Parkway, and for other purposes, having considered the same, report thereon with a recommendation that it do pass without amendment.

This bill provides for the transfer of 360 acres of land from the Department of Agriculture to the Department of the Interior. The land is now part of the Cherokee National Forest and is needed for the Foothills Parkway.

The request of the Department of the Interior for this legislation and the favorable report of the Department of Agriculture on an identical bill are attached.

CROW INDIAN RESERVATION

The bill (S. 1757) to ratify certain conveyances of land on the Crow Indian Reservation was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all conveyances made prior to October 18, 1957, in violation of the acreage limitations contained in the first paragraph of section 2 of the Act of June 4, 1920 (41 Stat. 751), as amended by the Act of June 8, 1940 (54 Stat. 252), are hereby validated, ratified, and confirmed insofar as such acreage limitations are concerned, but the right to challenge such conveyances for any other cause recognized by law, and the right to obtain access and ways of necessity pursuant to State law, shall not be affected by this Act: *Provided,* That no conveyance ratified, confirmed, or validated by this Act shall be construed to convey to the original grantee of any allottee, his heirs or assigns, and mineral rights in the lands to which this Act applies.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 680), explaining the purposes of the bill.

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

PURPOSE

The purpose of S. 1757, introduced by Senators MANSFIELD and METCALF, is to validate, ratify, and confirm certain conveyances of land on the Crow Indian Reservation, Mont., in violation of section 2 of the act of June 4, 1920.

NEED

The act of June 4, 1920, provided for the allotment of lands of the Crow Tribe of Indians. Section 2 of the act reads as follows:

"SEC. 2. No conveyance of land by any Crow Indian shall be authorized or approved by the Secretary of the Interior to any person, company, or corporation who owns at least six hundred and forty acres of agricultural or one thousand two hundred and eighty acres of grazing land within the present boundaries of the Crow Indian Reservation, nor to any person who, with the land to be acquired by such conveyance, would become the owner of more than one thousand two hundred and eighty acres of agricultural or one thousand nine hundred and twenty acres of grazing land within said reservation. Any conveyance by any such Indian made either directly or indirectly to any such person, company, or corporation of any land within said reservation as the same now exists, whether held by trust patent or by patent-in-fee shall be void and the grantee accepting the same shall be guilty of a misdemeanor and be punished by a fine of not more than $5,000 or imprisonment not more than six months or by both such fine and imprisonment."

This paragraph was amended by the act of June 8, 1940 (54 Stat. 252), to permit the Secretary of the Interior, under certain circumstances, to approve sales of allotted and inherited lands to members of the Crow Tribe without regard to the acreage limitations.

Shortly after the passage of the 1920 Crow Act, the acreage limitations set forth in section 2 of the act were violated. Upon the discovery of the still-existing limitations, the Commissioner of Indian Affairs immediately suspended all sales of land on the Crow Reservation and ordered an inquiry to determine the extent of the possible violations.

The Indian Bureau's investigation disclosed a substantial number of violations of the statute, involving thousands of acres of land. How this situation developed is not entirely clear, but it is evident that many individuals believed that the statutory limitation had been repealed by Congress. Once this belief became prevalent, and precedents were established for making sales without considering the statutory limitation, the practice continued without question. In many cases, the individual competent Indians on the Crow Reservation obtained fee simple title to their lands and in turn sold the land to non-Indians who exceeded the maximum acreage limitations. Other Indian lands were sold under the supervision of the Bureau of Indian Affairs with complete disregard for the statutory restrictions. In their testimony before the committee, representatives of the Indian Bureau stated that they could offer no satisfactory explanation for the failure to enforce the provisions of the 1920 act.

The Department of the Interior is of the opinion that legislative action is the most practical and desirable method of removing the cloud on conveyances made in violation of the 1920 act. While S. 1757 validates, ratifies, and confirms all conveyances made in violation of the 1920 Crow Act, the right to challenge such conveyances because of fraud, duress, or any other cause is not affected. The right to obtain access and ways of necessity pursuant to State law is also included.

Under the terms of the 1920 Crow Act, the minerals under the lands allotted to the individual Indians were reserved to the tribe for a period of 50 years. S. 1757 provides that no conveyance ratified, confirmed, or validated by this act shall be construed to convey to the original grantee of any allottee, his heirs, or assigns, any mineral rights in the lands to which the bill applies.

Legislation similar to S. 1757 was passed by the Senate in the 84th Congress (S. 3698) and in the 85th Congress (S. 332). Extensive field hearings were held in 1957 on legislation introduced in the House to clear the land titles involved.

BILL PASSED OVER

The bill (H.R. 5945) to establish a procedure for the prompt settlement, in a democratic manner, of the political status of Puerto Rico, was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

ESCAPE OR ATTEMPTED ESCAPE OF JUVENILE DELINQUENTS

The Senate proceeded to consider the bill (S. 1319) to amend chapter 35 of title 18, United States Code, with respect to the escape or attempted escape of juvenile delinquents.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 684), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to provide that a juvenile delinquent under 18 years of age, as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent, who escapes from custody, shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

STATEMENT

S. 1319 is identical to S. 1954 of the 87th Congress, which was reported favorably by the committee and passed the Senate on September 18, 1961. This legislation is recommended by the Department of Justice, as contained in three letters, two directed to the Vice President of the United States dated January 19, 1961, and January 18, 1963, and the third to the Honorable JAMES O. EASTLAND, chairman of the Committee on the Judiciary, U.S. Senate, dated April 12, 1961. All of the facts surrounding this legislation and the justification therefor are contained in Senate Report 1047 of the 87th Congress on S. 1954, and are as follows:

"Section 751 of title 18, United States Code, provides for a maximum penalty of 5 years imprisonment or a fine of $5,000 for the escape or attempted escape from lawful custoday or confinement following a conviction for any offense, or from custody or confinement prior to conviction of a pending felony charge. However, a lesser penalty applies if the escape is attempted or effected on a pending charge involving a misdemeanor.

"The Department of Justice in its report states that it has consistently advised U.S. attorneys to decline to prosecute committed juvenile delinquents under section 751, commonly known as the Escape Act. The Department has taken the position that a conviction for an offense is a prerequisite to prosecution under the Escape Act, and that a juvenile delinquency proceeding terminates merely in the adjudication of a status, not a conviction.

"This proposed legislation clearly brings within the statute's purview all persons committed under the Juvenile Delinquency Act, irrespective of whether or not such persons have attained their 18th birthday. It does, however, subject such escapes to the lesser of the two penalties now provided for by section 751 of title 18.

"In a statement on the floor of the Senate in relation to this bill, Senator Dodd, of Connecticut, indicated that on occasion, police officers and guards have sustained serious injuries at the hands of youths bent on making an escape from custody.

"The committee, after a review of all of the foregoing, sees no reason why juvenile delinquents should not be subject to a penalty in the situations heretofore outlined. The committe concurs in the recommendations of the Department of Justice and recommends that the bill, S. 1954, be considered favorably."

The committee does not feel that the enactment of this proposed amendment to the Escape Act would be contrary to the basic philosophy and purposes of the Federal Juvenile Delinquency Act. It does not mean that those who have been adjudicated as juvenile delinquents would be treated as convicted persons. Nor would it result in the placing of a juvenile in facilities or programs designed for adult criminals. It would amount to an extension of the original commitment to a specialized type of program. In addition, it would provide a more effective means of controlling those who have been committed under the Federal Juvenile Delinquency Act and through their conduct have demonstrated that they are unamendable to the relaxed supervision contemplated by the act and unsuited for treatment in the usual facilities available for juvenile delinquents.

There is no thought that all or even most of the escapees in this category would be prosecuted under the Escape Act, but the act would be available for those cases where administrative actions prove to be ineffective. This proposal is intended to preserve the integrity of the Federal Juvenile Delinquency Act by making it possible to process under the Escape Act the occasional case which turns out to be unfit for treatment under the juvenile statute.

In this connection, the committee notes that the concept that one who escapes from custody after having been committed under the Federal Juvenile Delinquency Act should not be subject to prosecution solely because he has not been convicted is basically inconsistent. Under existing law any person who escapes from the custody of the Attorney General or from any custody by virtue of any process or lawful arrest is subject to the provisions of the Escape Act. Those who have not yet been convicted of a violation of law or adjudicated to be a juvenile delinquent can be prosecuted under this act. It is therefore incongruous that a juvenile may be prosecuted as an escapee after his arrest and before he has been adjudicated as having committed a violation of law, but after an adjudication of delinquency he is immunized from prosecution for escape.

The committee, in considering the foregoing and the attachments hereto, believes that the same compelling reasons exist for the passage of this legislation as existed when the committee made its favorable report to the Senate in the 87th Congress. The committee, therefore, adheres to its former recommendation and recommends that the bill, S. 1319, be considered favorably.

Attached hereto and made a part hereof are the communications from the Department of Justice hereinbefore referred to.

Mr. DODD. Mr. President, although section 751 of title 18 of the United States Code now prescribes strong penalties for adult escapees detained or committed in connection with a criminal proceeding, the Justice Department has refused to allow prosecution of juvenile escapees under these provisions because the latter are not subjected to a criminal proceeding and are not convicted of a crime.

The point is well taken that juveniles should not be exposed to penalties applicable to adult felons. It is imperative that rehabilitation and treatment, rather than punishment, always remain the basic goals and the main substance of any handling procedures directed against minors.

This does not mean, however, that punishment and penalties have no value or place in the treatment and control of juvenile offenders. Indeed, some penalties as disciplinary measures are very much a part of any rehabilitative process.

A case in point is the need for such penalties to discourage young offenders from attempting to escape after detention or commitment in an institution.

We must recognize here that by their very nature as treatment centers rather than penal institutions, juvenile detention and commitment facilities are operated with minimum security provisions, both in terms of personnel exercising guard functions and in terms of the mechanical security measures of the physical plant.

On the other hand, we know that many delinquents exhibit the same kinds of disturbances as adult offenders.

A juvenile delinquent is often equally as hostile, equally as aggressive, and equally as anxious to escape from an institution as his adult counterpart. Indeed, with the enthusiasm, the energy, and the rebellion against authority characteristic of the delinquency-prone segment of our youth population, a juvenile offender may often be more escape-minded than the most vicious adult inmates of penitentiaries.

The present lack of legal penalties allows a juvenile to plan and attempt escapes time after time without jeopardizing his release from an institution at the predetermined time, but often at the risk of physical violence, at the risk of physical harm to the institution's personnel or himself, and at the expense of rehabilitation and treatment programs beneficial to all juvenile offenders.

Records submitted to the Juvenile Delinquency Subcommittee indicate that correctional officers have been either killed, have suffered permanent brain damage, or have been otherwise seriously injured in the course of attempts to escape by youthful inmates.

The records of the Federal Bureau of Prisons show that from January of 1961 to November of 1962, over 600 boys either escaped or attempted to escape from the several juvenile institutions under the Bureau's jurisdiction. Some months the combined total of both successful and unsuccessful escapees is as high as 45 individuals. But even these figures do not tell the whole story, because they may not reflect all attempts to escape, nor do they reflect the damage done to the rehabilitative programs by continuous preoccupation with plans to escape by a large number of young inmates.

The physical and emotional health, safety, and general well-being of the juvenile offender and of persons associated with him dictate that preoccupations with plans and attempts to escape be discouraged among the inmate population of juvenile institutions.

The proposed amendment to section 751 of title 18 of the United States Code would substantially contribute to a solution of the problems outlined above.

This measure would subject juvenile offenders who attempt to escape to the penalty of one year's imprisonment, a $1,000 fine, or both.

In a letter to me concerning the amendment, Mr. James V. Bennett, Director of the Bureau of Prisons, made the following statement:

> It is our opinion that the enactment of this amendment, which would authorize the imposition of a sentence of up to 1 year on juvenile delinquents who escape or attempt to escape, would greatly reduce the number of such incidents. Many of the juveniles contemplating escape would be effectively deterred by the knowledge that they would be subject to prosecution.

I feel that he is correct in his judgment and urge the Senate to consider this amendment favorably.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 751 of title 18, United States Code, is amended by inserting the subsection symbol "(a)" at the beginning thereof, and by adding, immediately following subsection (a) of such section as hereby so designated, a new subsection to read as follows:

"(b) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person's eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034 of this title, be fined not more than $1,000 or imprisoned not more than one year, or both. Nothing herein contained shall be construed to affect the discretionary authority vested in the Attorney General pursuant to section 5032 of this title."

SEC. 2. Section 752 of such title is amended by inserting the subsection symbol "(a)" at the beginning thereof, and by adding, immediately following subsection (a) of such section as hereby so designated, a new subsection to read as follows:

"(b) Whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempted escape of any person in the custody of the Attorney General or his authorized representative, shall, if the custody or confinement is by virtue of a lawful arrest for violation of any law of the United States not punishable by death or life imprisonment and committed before such person's eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034 of this title, be fined not more than $1,000 or imprisoned not more than one year, or both."

BILL PASSED OVER

The bill (H.R. 4766) for the relief of the Boren Clay Products Co. was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

UNAUTHORIZED COPYING OF ORNAMENTAL DESIGNS

The bill (S. 776) to encourage the creation of original ornamental designs of useful articles by protecting the authors of such designs for a limited time against unauthorized copying was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

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

DESIGNS PROTECTED

SECTION 1. (a) The author or other proprietor of an original ornamental design of a useful article may secure the protection provided by this Act upon complying with and subject to the provisions hereof.

(b) For the purposes of this Act—

(1) A "useful article" is an article which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is a part of a useful article shall be deemed to be a useful article.

(2) The "design of a useful article", hereinafter referred to as a "design", consists of those aspects or elements of the article, including its two-dimensional or three-dimensional features of shape and surface, which make up the appearance of the article.

(3) A design is "ornamental" if it is intended to make the article attractive or distinctive in appearance.

(4) A design is "original" if it is the independent creation of an author who did not copy it from another source.

DESIGNS NOT SUBJECT TO PROTECTION

SEC. 2. Protection under this Act shall not be available for a design that is—

(a) Not original;

(b) staple or commonplace, such as a standard geometric figure, familiar symbol, emblem, or motif, or other shape, pattern, or configuration which has become common, prevalent, or ordinary;

(c) different from a design excluded by subparagraph (b) above only in insignificant details or in elements which are variants commonly used in the relevant trades; or

(d) dictated solely by a utilitarian function of the article that embodies it.

REVISIONS, ADAPTATIONS, AND REARRANGEMENTS

SEC. 3. Protection for a design under this Act shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 2, if the design is a substantial revision, adaptation, or rearrangement of said subject matter: *Provided,* That such protection shall be available to a design employing subject matter protected under title 17 or 35 of the United States Code or under this Act, only if such protected subject matter is employed with the consent of the proprietor thereof. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection or as extending any subsisting protection.

COMMENCEMENT OF PROTECTION

SEC. 4. (a) The protection provided for a design under this Act shall commence upon the date when the design is first made public.

(b) A design is made public when, by the proprietor of the design or with his consent, an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public.

TERM OF PROTECTION

SEC. 5. (a) Subject to the provisions of this Act, the protection herein provided for a design shall continue for a term of five years from the date of the commencement of protection as provided in section 4(a), but if a proper application for renewal is received by the Administrator during the year prior to the expiration of the five-year term, the protection herein provided shall be extended for an additional period of five years from the date of expiration of the first five years.

(b) If the design notice actually applied shows a date earlier than the date of the commencement of protection as provided in section 4(a), protection shall terminate as though the term had commenced at the earlier date.

(c) Where the distinguishing elements of a design are in substantially the same form in a number of different useful articles, the design shall be protected as to all such articles when protected as to one of them, but no more than one registration shall be

required. Upon expiration or termination of protection in a particular design as provided in this Act all rights under this Act in said design shall terminate, regardless of the number of different articles in which the design may have been utilized during the term of its protection.

THE DESIGN NOTICE

SEC. 6. (a) Whenever any design for which protection is sought under this Act is made public as provided in section 4(b), the proprietor shall, subject to the provisions of section 7, mark it or have it marked legibly with a design notice consisting of the following three elements:

(1) The words "Protected Design", the abbreviation "Prot'd Des." or the letter "D" within a circle, thus (D);

(2) The year of the date on which the design was first made public; and

(3) The name of the proprietor, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the proprietor; any distinctive identification of the proprietor may be used if it has been approved and recorded by the Administrator before the design marked with such identification is made public.

After registration the registration number may be used instead of the elements specified in (2) and (3) hereof.

(b) The notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce. This requirement may be fulfilled, in the case of sheetlike or strip materials bearing repetitive or continuous designs, by application of the notice to each repetition, or to the margin, selvage, or reverse side of the material at reasonably frequent intervals, or to tags or labels affixed to the material at such intervals.

(c) When the proprietor of a design has complied with the provisions of this section, protection under this Act shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

EFFECT OF OMISSION OF NOTICE

SEC. 7. The omission of the notice prescribed in section 6 shall not cause loss of the protection or prevent recovery for infringement against any person who, after written notice of the design protection, begins an undertaking leading to infringement: *Provided,* That such omission shall prevent any recovery under section 22 against a person who began an undertaking leading to infringement before receiving written notice of the design protection, and no injunction shall be had unless the proprietor of the design shall reimburse said person for any reasonable expenditure or contractual obligation in connection with such undertaking incurred before written notice of design protection, as the court in its discretion shall direct. The burden of proving written notice shall be on the proprietor.

INFRINGEMENT

SEC. 8. (a) It shall be infringement of a design protected under this Act for any person, without the consent of the proprietor of the design, within the United States or its territories or possessions and during the term of such protection, to—

(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (d) hereof; or

(2) sell or distribute for sale or for use in trade any such infringing article: *Provided, however,* That a seller or distributor of any such article who did not make or import the same shall be deemed to be an infringer only if—

(i) he induced or acted in collusion with a manufacturer to make, or an importer to import such article (merely purchasing or giving an order to purchase in the ordinary course of business shall not of itself constitute such inducement or collusion); or

(ii) he refuses or fails upon the request of the proprietor of the design to make a prompt and full disclosure of his source of such article, and he orders or reorders such article after having received notice by registered or certified mail of the protection subsisting in the design.

(b) It shall not be infringement to make, have made, import, sell, or distribute, any article embodying a design created without knowledge of, and copying from, a protected design.

(c) A person who incorporates into his own product of manufacture an infringing article acquired from others in the ordinary course of business, or who, without knowledge of the protected design, makes or processes an infringing article for the account of another person in the ordinary course of business, shall not be deemed an infringer except under the conditions of clauses (i) and (ii) of paragraphs (a)(2) of this section. Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of clause (ii) of paragraph (a)(2) of this section.

(d) An "infringing article" as used herein is any article, the design of which has been copied from the protected design, without the consent of the proprietor: *Provided, however,* That an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium shall not be deemed to be an infringing article. An article is not an infringing article if it embodies, in common with the protected design, only elements described in subsections (a) through (d) of section 2.

(e) The party alleging rights in a design in any action or proceeding shall have the burden of affirmatively establishing its originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make a prima facie showing that such design was copied from such work.

APPLICATION FOR REGISTRATION

SEC. 9. (a) Protection under this Act shall be lost if application for registration of the design is not made within six months after the date on which the design was first made public as provided in section 4(b).

(b) Application for registration or renewal may be made by the proprietor of the design.

(c) The application for registration shall be made to the Administrator and shall state: (1) the name and address of the author or authors of the design; (2) the name and address of the proprietor if different from the author; (3) the specific name of the article, indicating its utility; (4) the date when the design was first made public as provided in section 4(b); and (5) such other information as may be required by the Administrator. The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this Act.

(d) The application for registration shall be accompanied by a statement under oath by the applicant or his duly authorized agent or representative, setting forth that, to the best of his knowledge and belief: (1) the design is original and was created by the author or authors named in the application; (2) the design has not previously been registered on behalf of the applicant or his predecessor in title; (3) the design has been made public as provided in section 4(b); and (4) the applicant is the person entitled to protection and to registration under this Act. If the design has been made public with the design notice prescribed in section 6, the statement shall also describe the exact form and position of the design notice.

(e) Error in any statement or assertion as to the utility of the article named in the application, the design of which is sought to be registered, shall not affect the protection secured under this Act.

(f) Errors in omitting a joint author or in naming an alleged joint author shall not affect the validity of the registration, or the actual ownership or the protection of the design: *Provided,* That the name of one individual who was in fact an author is stated in the application. Where the design was made within the regular scope of the author's employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual author.

(g) The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article having one or more views adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

(h) Related useful articles having common design features may be included in the same application under such conditions as may be prescribed by the Administrator.

BENEFIT OF EARLIER FILING DATE IN FOREIGN COUNTRY

SEC. 10. An application for registration of a design filed in this country by any person who has, or whose legal representative or predecessor or successor in title has previously regularly filed an application for registration of the same design in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States shall have the same effect as if filed in this country on the date on which the application was first filed in any such foreign country, if the application in this country is filed within six months from the earliest date on which any such foreign application was filed.

OATHS AND ACKNOWLEDGEMENTS

SEC. 11. Oaths and acknowledgments required by this Act may be made before any person in the United States authorized by law to administer oaths, or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, and shall be valid if they comply with the laws of the state or country where made.

EXAMINATION OF APPLICATION AND ISSUE OR REFUSAL OF REGISTRATION

SEC. 12. (a) Upon the filing of an application for registration in proper form as provided in section 9, and upon payment of the fee provided in section 15, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this Act, and if so, he shall register the design. Registration under this subsection shall be announced by publication.

(b) If, in his judgment, the application for registration relates to a design which on its face is not subject to protection under this Act, the Administrator shall send the applicant a notice of his refusal to register and the grounds therefor. Within three months from the date the notice of refusal is sent, the applicant may request, in writing, reconsideration of his application. After consideration of such a request, the Administrator shall either register the design or send the applicant a notice of his final refusal to register.

(c) Any person who believes he is or will be damaged by a registration under this Act may, upon payment of the prescribed fee, apply to the Administrator at any time to

cancel the registration on the ground that the design is not subject to protection under the provisions of this Act, stating the reasons therefor. Upon receipt of an application for cancellation, the Administrator shall send the proprietor of the design, as shown in the records of the Office of the Administrator, a notice of said application, and the proprietor shall have a period of three months from the date such notice was mailed in which to present arguments in support of the validity of the registration. It shall also be within the authority of the Administrator to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under the provisions of this Act, he shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the proprietor of record. Remedy against such a final determination may be had by means of a civil action against the Administrator pursuant to the provisions of section 1361 of title 28, United States Code, if commenced within such time after such decision, not less than sixty days, as the Administrator appoints.

(d) When a design has been registered under this section, the lack of utility of any article in which it has been embodied shall be no defense to an infringement action under section 20, and no ground for cancellation under subsection (c) of this section or under section 23.

CERTIFICATE OF REGISTRATION

SEC. 13. Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of that Office. The certificate shall state the name of the useful article, the date of filing of the application, the date on which the design was first made public as provided in section 4(b) or any earlier date as set forth in section 5(b), and shall contain a reproduction of the drawing or other pictorial representation showing the design. Where a description of the salient features of the design appears in the application, this description shall also appear in the certificate. A renewal certificate shall contain the date of renewal registration in addition to the foregoing. A certificate of initial or renewal registration shall be admitted in any court as prima facie evidence of the facts stated therein.

PUBLICATION OF ANNOUNCEMENTS AND INDEXES

SEC. 14. (a) The Administrator shall publish lists and indexes of registered designs and cancellations thereof and may also publish the drawings or other pictorial representations of registered designs for sale or other distribution.

(b) The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs, which file shall be available for use by the public under such conditions as the Administrator may prescribe.

FEES

SEC. 15. (a) There shall be paid to the Administrator the following fees:

(1) On filing each application for registration or for renewal of registration of a design, $15.

(2) For each additional related article included in one application, $10.

(3) for recording assignments, $3 for the first six pages, and for each additional two pages or less, $1.

(4) For a certificate of correction of an error not the fault of the Office, $10.

(5) For certification of copies of records, $1.

(6) On filing each application for cancellation of a registration, $15.

(b) The Administrator may establish charges for materials or services furnished by the Office, not specified above, reasonably related to the cost thereof.

REGULATIONS

SEC. 16. The Administrator may establish regulations not inconsistent with law for the administration of this Act.

COPIES OF RECORDS

SEC. 17. Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator, which copy shall be admissible in evidence with the same effect as the original.

CORRECTION OF ERRORS IN CERTIFICATES

SEC. 18. The Administrator may correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature not the fault of the Office occurring in good faith, by a certificate of correction under seal. Such registration, together with the certificate, shall thereafter have the same effect as if the same had been originally issued in such corrected form.

OWNERSHIP AND TRANSFER

SEC. 19. (a) The property right in a design subject to protection under this Act shall vest in the author, the legal representatives of a deceased author or of one under legal incapacity, the employer for whom the author created the design in the case of a design made within the regular scope of the author's employment, or a person to whom the rights of the author or of such employer have been transferred. The person or persons in whom the property right is vested shall be considered the proprietor of the design.

(b) The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the proprietor, or may be bequeathed by will.

(c) An acknowledgment as provided in section 11 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage.

(d) An assignment, grant, conveyance, or mortgage shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Office of the Administrator within three months from its date of execution or prior to the date of such subsequent purchase or mortgage.

REMEDY FOR INFRINGEMENT

SEC. 20. The proprietor of a design shall have remedy for infringement by civil action instituted after (1) the issuance of a certificate of registration of the design, or (2) the final refusal of registration of the design by the Administrator notwithstanding the due filing and prosecution of an application therefor in proper form: *Provided, however,* That such action is commenced within one year after such final refusal and that the Administrator is given notice by the plaintiff of the commencement of the action.

INJUNCTION

SEC. 21. The several courts having jurisdiction of actions under this Act may grant injunctions in accordance with the principles of equity to prevent infringement, including in their discretion, prompt relief by temporary restraining orders and preliminary injunction.

RECOVERY FOR INFRINGEMENT, AND SO FORTH

SEC. 22. (a) Upon finding for the claimant the court shall award him damages adequate to compensate for the infringement, but in no event less than the reasonable value of the use made of the design by the infringer, and the costs of the action. When the damages are not found by a jury, the court shall assess them. In either event the court may increase the damages to such amount, not exceeding $5,000 or $1 per copy, whichever is greater, as to the court shall appear to be just. The damages awarded in any of the above circumstances shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

(b) No recovery under paragraph (a) shall be had for any infringement committed more than three years prior to the filing of the complaint.

(c) The court may award reasonable attorney's fees to the prevailing party.

(d) The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the same be delivered up for destruction or other disposition as the court may direct.

POWER OF COURT OVER REGISTRATION

SEC. 23. In any action involving a design for which protection is sought under this Act, the court when appropriate may order registration of a design or the cancellation of a registration. Any such order shall be certified by the court to the Administrator, who shall make appropriate entry upon the records of his Office.

LIABILITY FOR ACTION ON REGISTRATION FRAUDULENTLY OBTAINED

SEC. 24. Any person who shall bring an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this Act, shall be liable in the sum of $1,000, or such part thereof as the court may determine, as compensation to the defendant, to be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney's fees of the defendant as may be assessed by the court.

PENALTY FOR FALSE MARKING

SEC. 25. (a) Whoever, for the purpose of deceiving the public, marks upon, or applies to, or uses in advertising in connection with any article made, used, distributed, or sold by him, the design of which is not protected under this Act, a design notice as specified in section 6 or any other words or symbols importing that the design is protected under this Act, knowing that the design is not so protected, shall be fined not more than $500 for every such offense.

(b) Any person may sue for the penalty, in which event, one-half shall go to the person suing and the other to the use of the United States.

PENALTY FOR FALSE REPRESENTATION

SEC. 26. Whoever knowingly makes a false representation materially affecting the rights obtainable under this Act for the purpose of obtaining registration of a design under this Act shall be fined not less than $500 and not more than $1,000, and any rights or privileges he may have in the design under this Act shall be forfeited.

RELATION TO COPYRIGHT LAW

SEC. 27. (a) Nothing in this Act shall affect any right or remedy now or hereafter held by any person under title 17 of the United States Code.

(b) When a pictorial, graphic, or sculptural work in which copyright subsists under title 17 of the United States Code is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of this Act.

RELATION TO PATENT LAW

SEC. 28. (a) Nothing in this Act shall affect any right or remedy available to or held by

any person under title 35 of the United States Code.

(b) The issuance of a design patent for an ornamental design for an article of manufacture under said title 35 shall terminate any protection of the design under this Act.

COMMON LAW AND OTHER RIGHTS UNAFFECTED

SEC. 29. Nothing in this Act shall annul or limit (1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been made public as provided in section 4(b), or (2) any trademark right or right to be protected against unfair competition.

ADMINISTRATOR

SEC. 30. The Administrator and Office of the Administrator referred to in this Act shall be such officer and office as the President may designate.

SEVERABILITY CLAUSE

SEC. 31. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of the Act or the application to other persons or circumstances shall not be affected thereby

AMENDMENT OF COPYRIGHT LAW

SEC. 32. Chapter I of title 17, United States Code, is amended by adding the following:

"§ 33. Ornamental design of useful article not subject to deposit; effect of utilization of copyrighted work in design of useful article

"(a) For purposes of deposit under sections 12 and 13 of this title, the Copyright Office shall in no case be required to accept for deposit a useful article even if it embodies a pictoral, graphic, or sculptural work, but nothing in this subsection shall preclude deposit and registration of pictorial, graphic, or sculptural works that portray useful articles or that are intended for utilization in the designs of useful articles.

"(b) When a pictorial, graphic, or sculptural work in which copyright subsists under this title is utilized in an original ornamental design of a useful article, by the copyright proprietor or under an express license from him, the design shall be eligible for protection under the provisions of the Design Protection Act of 1963.

"(c) Protection under this title of a work in which copyright subsists shall terminate with respect to its utilization in useful articles whenever the copyright proprietor has obtained registration of an ornamental design of a useful article embodying said work under the provisions of the Design Protection Act of 1963. Unless and until the copyright proprietor has obtained such registration, the copyrighted pictorial, graphic, or sculptural work shall continue in all respects to be covered by and subject to the protection afforded by the copyright subsisting under this title. Nothing in this section shall be deemed to create any additional rights or protection under this title.

"(d) Nothing in this section shall affect any right or remedy held by any person under this title in a work in which copyright was subsisting on the effective date of the Design Protection Act of 1963, or with respect to any utilization of a copyrighted work other than in the design of a useful article.

"(e) A 'useful article' as used in this section is an article which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which is normally a part of a useful article shall be deemed to be a useful article."

AMENDMENT OF OTHER STATUTES

SEC. 33. (a) Subdivision a(2) of section 70 of the Bankruptcy Act of July 1, 1898, as amended (11 U.S.C. 110(a)), is amended by inserting "designs," after "patent rights," and "design registration," after "application for patent,".

(b) Title 28 of the United States Code is amended—

(1) by inserting "designs," after "patents," in first sentence of section 1338(a);

(2) by inserting ", design," after "patent" in the second sentence of section 1338(a);

(3) by inserting "design," after "copyright," in section 1338(b);

(4) by inserting "and registered designs" after "copyrights" in section 1400; and

(5) by revising section 1498(a) to read as follows:

"(a) Whenever a registered design or invention is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner's remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

"For the purposes of this section, the use or manufacture of a registered design or an invention described in and covered by a patent of the United States by a contractor, a subcontractor, or any person, firm, or corporation for the Government and with the authorization or consent of the Government, shall be construed as use or manufacture for the United States.

"The court shall not award compensation under this section if the claim is based on the use or manufacture by or for the United States of any article owned, leased, used by, or in the possession of the United States, prior to, in the case of an invention, July 1, 1918, and in the case of a registered design, January 1, 1965.

"A Government employee shall have the right to bring suit against the Government under this section except where he was in a position to order, influence, or induce use of the registered design or invention by the Government. This section shall not confer a right of action on any registrant or patentee or any assignee of such registrant or patentee with respect to any design created by or invention discovered or invented by a person while in the employment or service of the United States, where the design or invention was related to the official functions of the employee, in cases in which such functions included research and development, or in the making of which Government time, materials, or facilities were used."

TIME OF TAKING EFFECT

SEC. 34. This Act shall take effect one year after its enactment.

NO RETROACTIVE EFFECT

SEC. 35. Protection under this Act shall not be available for any design that has been made public as provided in section 4(b) prior to the effective date of this Act.

SHORT TITLE

SEC. 36. This Act may be cited as "The Design Protection Act of 1963."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 680), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to encourage the creation of original ornamental designs of useful articles by protecting the authors of such designs for a limited time against unauthorized copying. The bill is intended to offer the creator of ornamental designs of useful articles a new form of protection directed toward the special problems arising in the design field, and is intended to avoid the defects of the existing copyright and design patent statutes by providing simple, easily secured and effective design protection for the period of 5 years, or, if renewed, a period of 10 years, under appropriate safeguards and conditions.

Such designs are presently protected by design patents issued under title 35, United States Code, if they meet the requirements of title 35. A design patent may not be issued until a search has been made to determine that such design possesses novelty. The design patent law, while affording protection to some designs, has proved inadequate to protect those whose designs have only a short life expectancy.

The present copyright statute is equally inappropriate for the protection of such designs. The term of copyright protection is too long for the majority of designs. The scope of copyright protection is too broad, while the notice and registration requirements do not fit the needs of design protection. Also, the copyright law protects only those designs which can be separately identified as "works of art."

Because of the limitations of both the design patent and copyright laws, this legislation proposes to establish a new form of protection for "original ornamental designs of useful articles." The subject matter of the bill is limited to designs of useful articles, the term "design" referring to those features of the useful article intended to give it an ornamental appearance. The protection provided by this legislation would begin when a useful article, bearing the design, is made public, and would last for 5 or, if renewed, 10 years.

Nothing in this legislation would affect any rights or remedies presently available under titles 17 and 35 of the United States Code.

ANALYSIS OF LEGISLATION

An analysis of the provisions of S. 776 follows:

Section 1(a) provides that the author of an original ornamental design of a useful article may secure the protection provided by this bill upon complying with certain provisions. Section 1(b) defines the terms "useful article," "design of a useful article," "ornamental," and "original."

Section 2 of the bill specifies that protection under this bill shall not be available for a design that is not original, staple, or commonplace; different from a design that is staple or commonplace only in insignificant details; or dictated solely by a utilitarian function of the article that embodies it.

Section 3 provides that protection for a design shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 2 if the design is a substantial revision, adaptation, or rearrangement of said subject matter, provided that such protection shall be available to a design employing subject matter protected under titles 17 or 35 of the United States Code or under this legislation only if such protected subject matter is employed with the consent of the proprietor thereof. It is further provided that such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection or as extending any subsisting protection.

Section 4(a) provides that the protection provided for a design shall commence upon the date when the design is first made public. It is provided in section 4(b) that a design is best made public when an article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale to the public.

Section 5(a) provides that the protection provided for a design by this legislation shall continue for a term of 5 years from the date of the commencement of protection but if an application for renewal is received during the year prior to the expiration of the 5-year term, the protection shall be extended for an additional period of 5 years from the date of expiration of the first 5 years. It is

provided in section 5(b) that when the design notice actually applied shows a date earlier than the date of commencement of protection, protection shall terminate as though the term had commenced at the earlier date.

Section 5(c) declares that where the distinguishing elements of a design are in substantially the same form in a number of useful articles, the design shall be protected as to all such articles when protected as to one of them, but no more than one registration will be required.

Section 6(a) provides that whenever any design for which protection is sought is made public, the proprietor shall mark it or have it marked with a design notice consisting of the three specified elements.

Section 6(b) requires that the notice shall be so located as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce.

Section 6(c) specifies that the removal, destruction, or obliteration by others of the design notice shall not affect protection under this bill when the proprietor of a design has complied with the provisions of this section.

Section 7 declares that the omission of the notice prescribed in section 6 shall not cause loss of the protection or prevent recovery for infringement against persons who, after written notice of the design protection, begins an undertaking leading to infringement. However, such omission shall prevent recovery against a person who began an undertaking leading to infringement before receiving notice, and no injunction shall be issued unless the proprietor of the design shall reimburse for any reasonable expenditure or obligation in connection with undertakings incurred before written notice of design protection.

Section 8(a) provides that it shall be infringement of a design for any person without the consent of the proprietor of a design to make, have made, or import, for sale or for use in trade, any infringing article or sell or distribute for sale or for use in trade any such infringing article. It is provided that a seller or distributor of any article who did not make or import the same shall be deemed to be an infringer only if he induced or acted in collusion with a manufacturer to make or an importer to import such article or if he refuses or fails to make a prompt disclosure of his source of such article, and he orders or reorders such article after having received a personal written notice of the protection subsisting in the design.

Section 8(b) provides that it shall not be infringement to make, have made, import, sell, or distribute any article embodying a design created without knowledge of, and copying from, a protected design.

Section 8(c) specifies that a person who incorporates into his own product of manufacture an infringing article acquired from others in the ordinary course of business or who, without knowledge of the protected design, makes or processes an infringing article for the account of another person in the ordinary course of business shall not be deemed an infringer except under the conditions set forth in the section.

Section 8(d) defines what constitutes an "infringing article."

Section 8(e) requires that the party in an action alleging the validity of a registered design shall have the burden of affirmatively establishing its originality whenever the opposing party introduces an earlier work which is identical to such design or so similar as to make a prima facie showing that the registered design was copied from such work.

Section 9(a) provides that protection shall be lost if application for registration of the design is not made within 6 months after the date on which the design was first made public.

Section 9(b) specifies that application for registration or renewal may be made by the proprietor of the design.

Section 9(c) requires that the application for registration shall be made to the Administrator and states the matters which shall be included in the application.

Section 9(d) requires that the application shall be accompanied by a statement under oath and sets forth the matter that must be sworn to by the applicant.

Section 9(e) guarantees that error in any statement or assertion as to the utility of the article shall not affect protection under the act.

Section 9(f) provides that errors in omitting a joint author or in naming an alleged joint author shall not affect the validity of the registration, or the actual ownership for the protection of the design, provided that the name of one individual who was in fact an author is stated in the application.

Section 9(g) provides that the application shall be accompanied by two copies of a drawing or other pictorial representation of the useful article.

Section 9(h) permits related articles having common design features be included in the same application under prescribed conditions.

Section 10 provides that an application for registration of a design in this country by a person who has previously filed an application for registration of the same design in a foreign country which affords similar privileges to U.S. citizens, shall have the same effect as if filed in this country on the date on which the application was first filed in any such foreign country, if the application in this country is filed within 6 months from the earliest date on which any such foreign application was filed.

Section 11 prescribes the procedures for the administering of the oaths and acknowledgements required by this act.

Section 12(a) provides that upon the filing of an application and upon payment of the fee, the Administrator shall determine whether or not the application relates to a design which, on its face, appears to be subject to protection and if so, shall register the design. It is further provided in section 12(b) that if the Administrator determines that the application on its face relates to a design which is not subject to protection, the Administrator shall notify the applicant, who shall have 3 months in which to request reconsideration of his application. After consideration of such a request, the Administrator shall either register the design or send the applicant a notice of final refusal to register.

Section 12(c) provides that any person who believes he is or may be damaged by a registration may, upon payment of a fee, apply to the Administrator at any time to cancel any registration on the ground that the design is not subject to protection. This section further provides for the procedures to be followed in such cancellation proceedings.

Section 12(d) provides that when a design has been registered, the lack of utility of any article in which it has been embodied shall be no defense to an infringement action and no ground for cancellation.

Section 13 authorizes the issuance of certificates of registration and provides for the contents thereof.

Section 14(a) instructs the Administrator to publish lists and indexes of registered designs and cancellations thereof and authorizes him to publish the drawings or other pictorial representations of registered designs.

Section 14(b) instructs the Administrator to establish and maintain a file of the drawings or other pictorial representations of registered designs.

Section 15(a) specifies the fees which shall be paid to the Administrator.

Section 15(b) authorizes the Administrator to establish charges for materials or services furnished by the Office.

Section 16 authorizes the Administrator to establish regulations for the administration of this legislation.

Section 17 provides for the obtaining of certified copies of official records of the Office of the Administrator.

Section 18 authorizes the Administrator to correct errors in registration incurred through the fault of the Office of the Administrator.

Section 19(a) identifies those in whom the property right in the design shall rest and provides that the person or persons in whom the property right is vested shall be considered the proprietor of the design.

Section 19(b) provides for the transfer of ownership of the property right in a registered design or a design for which an application for registration has been or may be filed.

Section 19(c) specifies that an acknowledgment, as provided in section 11, shall be prima facie evidence of the execution of an assignment, grant, or conveyance.

Section 19(d) provides that an assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration without notice, unless it is recorded in the Office of the Administrator within 3 months from its date of execution or prior to the date of such subsequent purchase or mortgage.

Section 20 provides that the proprietor of a design shall have a remedy for infringement by civil action instituted after the issuance of a certificate of registration of the design, or the final refusal of registration of the design by the Administrator.

Section 21 authorizes the granting of injunctions for the prevention of infringements.

Section 22(a) provides that the court, upon finding for the claimant, shall award damages adequate to compensate for the infringement, but in no event less than the reasonable value of the use made of the design by the infringer, and the costs of the action. It is further provided that the court may increase the damages to such amount, not exceeding $5,000 or $1 per copy, whichever is greater, as to the court shall appear to be just.

Section 22(b) excludes recovery for any infringement committed more than 3 years prior to the filing of the complaint.

Section 22(c) permits the court to award reasonable attorney fees.

Section 22(d) authorizes the court to order the destruction or other disposition of all infringing articles and devices employed in the making of the same.

Section 23 authorizes the court to order a cancellation of a registration.

Section 24 provides a penalty for any person bringing an action for infringement knowing that registration of the design was obtained by a false representation.

Section 25(a) provides a penalty for the false marking of a design which is not protected under this legislation.

Section 25(b) specifies as to who shall have a right of action to sue for the penalty.

Section 26 provides a penalty for whoever knowingly makes a false representation materially affecting rights obtainable under this legislation.

Section 27(a) makes clear that nothing in this legislation shall affect any right or remedy now or hereafter held by any person under title 17 of the United States Code.

Section 27(b) specifies that when a work in which copyright subsists under title 17 of the United States Code is utilized in an original ornamental design of a useful article, the design shall be eligible for protection under the provisions of this legislation.

Section 28(a) provides that nothing in this legislation shall affect any right or rem-

edy available to any person under title 35 of the United States Code.

Section 28(b) provides that the issuance of a design patent for an ornamental design under title 35 shall terminate any protection of the design under this legislation.

Section 29 specifies that nothing in this legislation shall restrict (1) common law or other rights or remedies available with respect to a design which has not been made public as provided in section 4(b), or (2) any trademark right or right to be protected against unfair competition.

Section 30 provides that the Administrator and Office of the Administrator shall be such officer and office as the President may designate.

Section 31 guarantees that if any provision of this bill or the application of such provision is held invalid, the remainder of the legislation or application shall not be affected.

Section 32 provides that chapter I of title 17 of the United States Code is amended by adding a section 33 pertaining to the "ornamental design of useful article not subject to deposit; effect of utilization of copyrighted work in design of useful article."

Subsection (a) would provide that the Copyright Office shall in no case be required to accept for deposit a useful article even if it embodies a pictorial, graphic or sculptural work, but it is further provided that nothing in this subsection shall preclude deposit and registration of such works that portray useful articles or that are intended for utilization in the designs of useful articles.

Subsection (b) would provide that when a work in which copyright subsists under this title is utilized in an original ornamental design of a useful article, the design, shall be eligible for protection under this legislation.

Subsection (c) provides that protection under this title of a work in which copyright subsists would terminate with respect to the design of a useful article in which the work has been utilized whenever the copyright proprietor has obtained registration of an ornamental design of a useful article embodying such works under the provisions of this legislation. It is further provided that unless and until the copyright proprietor has obtained such registration, the copyrighted work shall continue in all respects to be covered by the protection afforded by the copyright subsisting under title 17 of the United States Code.

Subsection (d) would provide that nothing in this section shall affect any right or remedy held by any person under this title in a work in which copyright was subsisting on the effective date of this legislation, or with respect to any utilization of a copyrighted work other than in the design of a useful article.

Subsection (e) would define "useful article" as used in this section.

Subsection 33 makes minor amendments to the Bankruptcy Act of July 1, 1898 (11 U.S.C. 110(a)); and title 28 of the United States Code.

Section 34 specifies that this legislation shall take effect 1 year after its enactment.

Section 35 provides that this legislation shall have no retroactive effect.

Section 36 states that this legislation may be cited as the Design Protection Act of 1963.

BILL PASSED OVER

The bill (S. 579) for the relief of Cilka Elizabeth Ingrova was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

LIVIA SERNINI (CUCCIATI)

The bill (S. 2242) for the relief of Livia Sernini (Cucciati) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Livia Sernini (Cucciati) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

AMENDMENT OF TITLE 35, UNITED STATES CODE—WRITTEN DECLARATION IN LIEU OF OATH

The bill (S. 2040) to amend title 35 of the United States Code to permit a written declaration to be accepted in lieu of an oath, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 35, United States Code, is amended by adding the following new sections after section 24:

"§ 25. Declaration in lieu of oath

"(a) The Commissioner may by rule prescribe that any document to be filed in the Patent Office and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration in such form as the Commissioner may prescribe, such declaration to be in lieu of the oath otherwise required.

"(b) Whenever such written declaration is used, the document must warn the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C 1001).

"§ 26. Effect of defective execution

"Any document to be filed in the Patent Office and which is required by any law, rule, or other regulation to be executed in a specified manner may be provisionally accepted by the Commissioner despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed."

SEC. 2. The analysis of chapter 2 of title 35, United States Code, immediately preceding section 21, is amended to read as follows:

"Sec.
"21. Day for taking action falling on Saturday, Sunday, or holiday.
"22. Printing of papers filed.
"23. Testimony in Patent Office cases.
"24. Subpoenas, witnesses.
"25. Declaration in lieu of oath.
"26. Effect of defective execution."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 689), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to facilitate the procedure of the Patent Office by permitting the Commissioner of Patents to prescribe by rule that any document which presently is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration.

A number of provisions in title 35 of the United States Code and the Trademark Act of 1946 (ch. 22 of title 15 of the United States Code) as well as various other statutes, require an applicant or other party in Patent Office proceedings to execute certain documents under oath. These requirements have added to the workload and expense of the Patent Office and have caused considerable inconvenience to persons seeking to comply with the requirements.

SECTIONAL ANALYSIS

Section 1 of the bill will permit the Commissioner of Patents to prescribe by rule that any document may be filed in the Patent Office and which is required by any law, rule, or regulation to be under oath may be subscribed to by a written declaration in such form as the Commissioner may prescribe. It is also provided that when such a written declaration is permitted by the Commissioner, the document executed by the written declaration must warn the declarant that willful false statements are punishable by fine or imprisonment, or both. It is also provided that any document, filed in the Patent Office and required by law, rule, or other regulation to be executed in a specified manner, may be provisionally accepted by the Commissioner, despite a defective execution, if a properly executed oath or declaration, in lieu thereof, is submitted within a time prescribed by the Commissioner.

Section 2 of S. 2040 merely revises the analysis of chapter II, title 35, and incorporates new sections 25 and 26.

After a study of this legislation, the committee adheres to its former endorsement and recommends that the bill, S. 2040, be favorably considered.

Attached hereto and made a part hereof is a communication from the Department of Commerce dated February 12, 1963.

EXTENSION OF PATENT TO UNITED DAUGHTERS OF THE CONFEDERACY

The bill (H.R. 5703) granting an extension of patent to the United Daughters of the Confederacy was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 690), explaining the purposes of the bill.

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

PURPOSE

The purpose of H.R. 5703 is to extend and renew design patent No. 29611, the insignia of the United Daughters of the Confederacy, for a period of 14 years from the date of enactment of the bill.

STATEMENT

The report of the Department of Commerce indicates no objection to the enactment of this legislation. H.R. 5703 was approved by the House of Representatives on August 6, 1963. The Senate Subcommittee on Patents, Trademarks, and Copyrights, to which H.R. 5703 was referred, has received no objections to this bill.

The design patent was originally issued on November 8, 1898. It was previously renewed and extended for a period of 14 years by Public Law 242, 69th Congress, approved May 18, 1926, and again by Public Law 220 of the 77th Congress, approved August 18, 1941. The last

extension of the patent expired on August 18, 1955.

Paragraph (b) of the proposed legislation provides that no person who has manufactured the design of such patent between August 18, 1955, and the date of enactment of this act shall be held liable for infringement of this patent by the continued manufacture and sale thereof. This, of course, will preclude any penalty for manufacturing such design during that time.

The Senate during the 85th Congress passed a bill (S. 732) to extend the design patent but no action was taken in the House. The report of this committee on S. 732, 85th Congress, reads in part as follows:

"The design patent referred to undertakes to protect the insignia of the United Daughters of the Confederacy. In the report of the Secretary of Commerce on this legislation it is stated that the Department generally opposes the extensions of patents but that an exception has been made with respect to legislation extending the statutory period for design patents for emblems or badges of patriotic, fraternal, or religious organizations and for that reason the Department of Commerce interposes no objection to the enactment of this legislation.

"* * * * *

"It is noted in the report of the Secretary of Commerce that insofar as the records of the Patent Office show, the title to Design Patent No. 29,611 has never been transferred to the United Daughters of the Confederacy but remains in the name of the patentee, Simeon E. Theus. Inquiry was made in relation to this situation, the result of which is expressed in a letter to the Honorable JAMES O. EASTLAND, chairman of the Committee on the Judiciary, from Senator A. WILLIS ROBERTSON, of Virginia, dated April 15, 1957, in which it is suggested that the bill be amended by inserting the words in line 5, on page 1, after the patent number "which is the insignia of the United Daughters of the Confederacy."

"It is intended that such amendment will at least give some recognition to the rights of the United Daughters of the Confederacy to continue official use of the design insignia even though there is not a record of assignment by the original patentee. Apparently, this has been the intent of the Congress over the years because, as indicated, there have been two extensions of this patent in the name of the United Daughters of the Confederacy and further, that it is not the policy of the Congress nor of the Patent Office to recommend extension of this type of patent unless it is in the interests of patriotic, fraternal, or religious organizations."

After a study of this matter the committee concurs in the action of the House and recommends that the bill, H.R. 5703, be considered favorably.

Attached hereto and made a part hereof are the report of the Department of Commerce on H.R. 5703, dated September 25, 1963, the Secretary of Commerce on S. 732, 85th Congress, and a letter from Senator ROBERTSON to the chairman of the Senate Committee on the Judiciary, dated April 15, 1957.

DELAWARE RIVER PORT AUTHORITY

The bill (S. 1832) granting the consent of Congress to a further supplemental compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania concerning the Delaware River Port Authority, formerly the Delaware River Joint Commission, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted 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 the supplemental compact or agreement set forth below, and to each and every term and provision thereof: *Provided,* That nothing therein contained shall be construed to affect, impair, or diminish any right, power, or jurisdiction of the United States or of any court, department, board, bureau, officer, or official of the United States, over or in regard to any navigable waters, or any commerce between the States or with foreign countries, or any bridge, railroad, highway, pier, wharf, or other facility or improvement, or any other person, matter, or thing, forming the subject matter of said supplemental compact or agreement or otherwise affected by the terms thereof:

"SUPPLEMENTAL AGREEMENT BETWEEN THE COMMONWEALTH OF PENNSYLVANIA AND THE STATE OF NEW JERSEY FURTHER AMENDING AND SUPPLEMENTING THE AGREEMENT ENTITLED 'AGREEMENT BETWEEN THE COMMONWEALTH OF PENNSYLVANIA AND THE STATE OF NEW JERSEY CREATING THE DELAWARE RIVER JOINT COMMISSION AS A BODY CORPORATE AND POLITIC AND DEFINING ITS POWERS AND DUTIES' ENLARGING THE PUBLIC PURPOSES OF THE DELAWARE RIVER PORT AUTHORITY AND EXTENDING ITS JURISDICTION, POWERS AND DUTIES AND DEFINING SUCH ADDITIONAL PURPOSES, JURISDICTION, POWERS AND DUTIES

"The Commonwealth of Pennsylvania and the State of New Jersey do hereby solemnly covenant and agree, each with the other, as follows:

"(1) Article I of the compact or agreement entitled 'Agreement between the Commonwealth of Pennsylvania and the State of New Jersey creating The Delaware River Joint Commission as a body corporate and politic and defining its power and duties,' which was executed on behalf of the Commonwealth of Pennsylvania by its Governor on July first, one thousand nine hundred and thirty-one, and on behalf of the State of New Jersey by the New Jersey Interstate Bridge Commission by its members on July first, one thousand nine hundred and thirty-one, and which was consented to by the Congress of the United States by Public Resolution Number twenty-six, being chapter two hundred fifty-eight of the Public Laws, Seventy-second Congress, approved June fourteenth, one thousand nine hundred and thirty-two, as heretofore amended and supplemented, is amended to read as follows:

"'ARTICLE I

"'The body corporate and politic, heretofore created and known as The Delaware River Joint Commission, hereby is continued under the name of The Delaware River Port Authority (hereinafter in this agreement called the "commission"), which shall constitute the public corporate instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey for the following public purposes, and which shall be deemed to be exercising an essential governmental function in effectuating such purposes, to wit:

"'(a) The operation and maintenance of the bridge, owned jointly by the two States, across the Delaware River between the City of Philadelphia in the Commonwealth of Pennsylvania and the City of Camden in the State of New Jersey, including its approaches, and the making of additions and improvements thereto.

"'(b) The effectuation, establishment, construction, operation and maintenance of railroad or other facilities for the transportation of passengers across any bridge or tunnel owned or controlled by the commission, including extensions of such railroad or other facilities within the City of Camden and the City of Philadelphia necessary for efficient operation in the Port District.

"'(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto, either directly by purchase, lease or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner.

"'(d) Cooperation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware River and the Port District.

"'(e) The procurement from the Government of the United States of any consents which may be requisite to enable any project within its powers to be carried forward.

"'(f) The construction, acquisition, operation and maintenance of other bridges and tunnels across or under the Delaware River, between the City of Philadelphia or the County of Delaware in the Commonwealth of Pennsylvania, and the State of New Jersey, including approaches, and the making of additions and improvements thereto.

"'(g) The promotion as a highway of commerce of the Delaware River, and the promotion of increased passenger and freight commerce on the Delaware River and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

"'(h) To study and make recommendations to the proper authorities for the improvement of terminal, lighterage, wharfage, warehouse and other facilities necessary for the promotion of commerce on the Delaware River.

"'(i) Institution through its counsel, or such other counsel as it shall designate, or intervention in, any litigation involving rates, preferences, rebates or other matters vital to the interest of the Port District: *Provided,* That notice of any such institution of or intervention in litigation shall be given promptly to the Attorney General of the Commonwealth of Pennsylvania and to the Attorney General of the State of New Jersey, and provision for such notices shall be made in a resolution authorizing any such intervention or litigation and shall be incorporated in the minutes of the commission.

"'(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system for the transportation of passengers, express, mail, and baggage, or any of them, between points in New Jersey within the Port District and within a thirty-five (35 mile radius of the City of Camden, New Jersey, and points within the City of Philadelphia, Pennsylvania, and intermediate points. Such system may be established by utilizing existing rapid transit systems, railroad facilities, highways and bridges within the territory involved and by the construction or provision of new facilities where deemed necessary, and may be established either directly by purchase, lease or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner.

"'(k) The performance of such other functions which may be of mutual benefit to the Commonwealth of Pennsylvania and the State of New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels.'

"(1) The performance or effectuation of such additional bridge, tunnel, railroad, rapid transit, transportation, transportation facility, terminal, terminal facility, and port

improvement and development purposes within the Port District as may hereafter be delegated to or imposed upon it by the action of either State concurred in by legislation of the other.

"(2) Said compact or agreement is further amended and supplemented by adding thereto, as a part thereof, following Article XII–A thereof, a new article reading as follows:

"'ARTICLE XII–B

"'(1) In addition to other public purposes provided for it and other powers and duties conferred upon it, and not in limitation thereof, and notwithstanding the provisions of any other article hereof, the Commission shall have among its authorized purposes, and it shall have the power to effectuate, the construction, operation, and maintenance of a bridge for vehicular traffic across the Delaware River, between a point or points in the Township of Logan, New Jersey, and a point or points in the City of Chester, Pennsylvania, including approaches thereto.

"'(2) In addition to other public purposes provided for it and other powers and duties conferred upon it, and not in limitation thereof, and notwithstanding the provisions of any other article hereof, the Commission shall have among its authorized purposes, and it shall have the power to effectuate, the establishment, rehabilitation, equipment, construction, maintenance and operation of ferries for passengers and vehicular traffic over and across the Delaware River within the Port District of the Commonwealth of Pennsylvania and the State of New Jersey. Such ferries may be established either directly by purchase, lease or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner, and may be established by utilizing any existing ferries within the Port District across the Delaware River between said Commonwealth and said State and by the construction or provision of new facilities where deemed necessary. Any such ferry may include such approach highways and interests in land or other property necessary therefor in the Commonwealth of Pennsylvania or the State of New Jersey as may be determined by the Commission to be necessary to facilitate the flow of traffic in the vicinity of any such ferry or to connect any such ferry with the highway system or other traffic facilities in said Commonwealth or said State.

"'(3)(a) For the effectuation of any of its purposes authorized by this article, the Commission is hereby granted, in addition to any other powers heretofore or hereafter granted to it, power and authority to acquire in its name by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain, any such land and other property which it may determine is reasonably necessary to acquire for any of its purposes authorized by this article and any and all rights, title and interest in such land and other property, including public lands, parks, playgrounds, reservations, highways, or parkways, owned by or in which any county, city, borough, town, township, village, or other political subdivision of the State of New Jersey or the Commonwealth of Pennsylvania has any right, title or interest, or parts thereof or rights therein, and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon, or the benefit of restrictions upon, abutting property to preserve and protect such land and other property. Upon the exercise of the power of eminent domain under this paragraph, the compensation to be paid with regard to property located in the State of New Jersey shall be ascertained and paid in the manner provided in Title 20 of the Revised Statutes of New Jersey insofar as the provisions thereof are applicable and not inconsistent with the provisions contained in this paragraph, and with regard to property located in the Commonwealth of Pennsylvania shall be ascertained and paid in the manner provided by the act approved the ninth day of July, one thousand nine hundred nineteen (Pamphlet Laws 814) and acts amendatory thereof and supplementary thereto, insofar as the provisions are applicable and not inconsistent with the provisions contained in this paragraph. The Commission may join in separate subdivisions in one petition or complaint the descriptions of any number of tracts or parcels of such land and other property to be condemned, and the names of any number of owners and other parties who may have an interest herein, and all such land and other property included in said petition or complaint may be condemned in a single proceeding: *Provided, however,* That separate awards shall be made for each tract or parcel of such land or other property: *And provided further,* That each of said tracts or parcels of such land or other property lies wholly in or has a substantial part of its value lying wholly within the same county.

"'(b) Whenever the Commission acquires under this paragraph (3) the whole or any part of the right of way of a public utility located in the Commonwealth of Pennsylvania, the Commission shall, at its own expense, provide a substitute right of way on another and favorable location. Such public utility shall thereupon provide for the transfer to, or reconstruction upon, in, under or above said substitute right of way of any structures and facilities of said public utility located upon, in, under or above said original right of way at the time the same is so acquired. The Commission is hereby authorized to enter into agreements with such public utility to contribute toward the expense of such transfer or reconstruction, and in the event that they are unable to agree on the amount to be paid, the matter shall be referred to the Pennsylvania Public Utility Commission which shall, after hearing thereon, make a finding of the amount to be paid to such public utility by the Commission. In case of failure of such public utility, within a reasonable time after notice so to do, to remove its facilities to such substitute right of way, the Pennsylvania Public Utility Commission shall have jurisdiction, on petition of the Commission, to order such transfer or reconstruction. Any party to such proceedings shall have the right of appeal from the ruling of the Pennsylvania Public Utility Commission. The Delaware River Port Authority is hereby authorized to acquire, by purchase or by the exercise of the power of eminent domain, any necessary land or right of way for the relocation of any such public utility right of way and facilities. The substitute right of way thus acquired shall be equal in estate to the original right of way acquired from the public utility, and the Commission shall deliver to the public utility a deed, duly executed and acknowledged, conveying to it an estate in the substitute right of way at least equal to that owned by the public utility in the original right of way, or if such substitute right of way is to be acquired by purchase, the Commission shall procure and deliver to the public utility a deed conveying such estate to it from the owner of the land on which such substitute right of way is located.

"'This subparagraph (b) shall have no application to the relocation of public utility facilities located in the beds of public streets, roads or highways.

"'(c) In addition to any other powers heretofore or hereafter granted to it, the Commission, in connection with construction or operation of any project for the effectuation of any of its purposes authorized by this article, shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances (in this subparagraph (c) called "works") located in the State of New Jersey of any public utility as defined in section 48:2–13 of the revised statutes of New Jersey, in, on, along, over or under any such project. Whenever in connection with the construction or operation of any such project the Commission shall determine that it is necessary that any such works, which now are or hereafter may be located in, on, along, over or under any such project should be relocated in such project, or should be removed therefrom, the public utility owning or operating such works shall relocate or remove the same in accordance with the order of the Commission: *Provided, however,* That, except in the case of the relocation or removal of such works located in, on, along, over or under public streets, roads or highways, the cost and expenses of such relocation or removal, including the cost of installing such works in a new location or new locations, and the cost of any lands or any rights or interest in lands or any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of such works, shall be paid by the Commission and shall be included in the cost of such project. In case of any such relocation or removal of works as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such works, with the necessary appurtenances, in the new location or new locations for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such works in their former location.

"'In case of any such relocation or removal of works, as aforesaid, the Commission shall own and maintain, repair and renew structures within the rights-of-way of railroad companies carrying any such project over railroads, and the Commission shall bear the cost of maintenance, repair and renewal of structures within the rights-of-way of railroad companies carrying railroads over any such project, but this provision shall not relieve any railroad company from responsibility for damage caused to any authority or railroad structure by the operation of its railroad. Such approaches, curbing, sidewalk paving, guard rails on approaches and surface paving on such projects as shall be within the rights-of-way of a railroad company or companies shall be owned and maintained, repaired and renewed by the Commission; rails, pipes and lines shall be owned and maintained, repaired and renewed by the railroad company or companies.

"'(4) The power and authority granted in this article to the Commission to construct new or additional approach highways shall not be exercised unless and until the Department of Highways of the Commonwealth of Pennsylvania shall have filed with the Commission its written approval as to approach highways to be located in said Commonwealth and the State Highway Department of the State of New Jersey shall have filed with the Commission its written approval as to approach highways to be located in said State.

"'(5) The effectuation of any of the purposes authorized by this article, and the exercise or performance by the Commission

of any of its powers or duties in connection with effectuation of any such purpose, shall not be subject to any restrictions, limitations or provisions provided for or set forth in Article XII hereof. The bridge or ferries referred to in this article may be established, constructed or erected by the Commission notwithstanding the terms and provisions of any other agreement between the Commonwealth of Pennsylvania and the State of New Jersey.

"'(6) The Commission shall not construct or erect the bridge referred to in this article unless and until the Governor of the State of New Jersey and the Governor of the Commonwealth of Pennsylvania shall have filed with the Commission their written consents to such construction or erection.

"'(7) The Commission is hereby granted the following powers in addition to any other powers heretofore or hereafter granted to it:

"'(a) To abandon, close off, dismantle, sell or otherwise dispose of, any project or facility, or any part thereof, or any other property, which the Commission may determine to be no longer useful or necessary for public use.

"'(b) To effectuate any of its authorized purposes either directly or indirectly by or through wholly owned subsidiary corporations. Any such subsidiary corporation shall be a public corporate instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey for such purposes and shall be deemed to be exercising an essential governmental function in effectuating such purposes. Any such subsidiary corporation and any of its property, functions and activities shall have such of the privileges, immunities, tax and other exemptions of the Commission and of the Commission's property, functions and activities, and such of the rights, powers and duties of the Commission, as the Commission shall determine.

"'(8) The power of the Commission, which is hereby confirmed, to purchase, construct, lease, finance, operate, maintain and own a terminal facility consisting in whole or in part of a parking area or place, garage, building, improvement, structure, or other accommodation for the parking or storage of motor or other vehicles, including all real or personal property necessary or desirable in connection therewith, shall, notwithstanding any other provision of this agreement, be exercised only at such place in the vicinity of and in connection with, or as a part of any bridge, tunnel, ferry, railroad, rapid transit system, transportation or terminal facility, as the Commission may determine to be necessary or desirable.'

"In witness whereof, this 25th day of June, 1963, Richard J. Hughes has affixed his signature hereto as Governor of the State of New Jersey and caused the great seal of the State to be attached hereto.

"RICHARD J. HUGHES,
"Governor, State of New Jersey.

"Attest:

"ROBERT J. BURKHARDT,
"Secretary of State.

"In witness whereof, this 26th day of June, 1963, William W. Scranton has affixed his signature hereto as Governor of the Commonwealth of Pennsylvania and caused the great seal of the Commonwealth to be attached hereto.

"WILLIAM W. SCRANTON,
"Governor, Commonwealth of Pennsylvania.

"Attest:

"GEORGE I. BLOOM,
"Secretary of the Commonwealth."

SEC. 2. Public Laws 573 and 574, being respectively chapter 921 and chapter 922 of the Public Laws, Eighty-second Congress, second session, both approved July 17, 1952, are hereby confirmed and continued and shall be construed to apply to the aforesaid supplemental compact or agreement as if the supplemental compact or agreement had been consented to by such Public Laws.

SEC. 3. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 691), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to grant the consent of Congress to a further supplemental compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania concerning the Delaware River Port Authority, formerly the Delaware River Joint Commission. The bill also contains provisions necessary to the implementation of the agreement.

STATEMENT

The bill, S. 1832, would grant the consent of Congress to an interstate compact between Pennsylvania and New Jersey supplementing an earlier agreement consented to by Congress in 1932. The body corporate and politic, established in 1932 and known as the Delaware River Joint Commission, would be continued under the name of the Delaware River Port Authority. It would be empowered to construct and operate bridges, tunnels, railroads, rapid transit systems, and other facilities. The new body would be empowered to cooperate with and make recommendations to other bodies interested in the use or development of the Delaware River.

Senator CLARK, introducing the bill, on behalf of himself and Senators WILLIAMS of New Jersey, CASE, and SCOTT, stated, July 2, 1963:

"This supplemental compact would increase the jurisdiction of the port authority so that it would have the power to construct, operate, and maintain a bridge for vehicular traffic across the Delaware River at a point between New Jersey and the city of Chester, Pa.

"Approval of the supplemental compact in no way passes upon the merits of any design proposed for the bridge. This is a matter upon which local authorities and the U.S. Army Corps of Engineers must agree. It simply grants the power to construct and operate a bridge once all interests have agreed upon a specific structure.

"Madam President, the supplemental compact has been agreed to by the Legislatures and signed by the Governors of both New Jersey and Pennsylvania. The compact adds to, and in no way diminishes, the previous powers of the Delaware River Port Authority."

In reporting on the bill, the Department of the Interior stated that enactment of the legislation would not conflict with programs of interest to that Department. There has been no indication that the proposed supplemental compact would in any way intrude upon or interfere with any interest of the United States being administered by any other Government agency. Accordingly, the committee recommends that S. 1832 be given favorable consideration.

Attached is a report submitted by the Department of the Interior on S. 1832 under date of October 18, 1963.

BILL PASSED OVER

The bill (H.R. 1213) for the relief of World Games, Inc., was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

MRS. FUSAKO LEITZEL

The bill (S. 1332) for the relief of Mrs. Fusako Leitzel was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212 (a)(3) of the Immigration and Nationality Act, Mrs. Fusako Leitzel may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That if the said Mrs. Fusako Leitzel is not entitled to medical care under the Dependents' Medical Care Act (70 Stat. 250), a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the Immigration and Nationality Act: *And provided further,* That the exemption granted herein shall apply only to a ground for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this Act.

PIETRO MAGGIO

The bill (S. 1410) for the relief of Pietro Maggio was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Pietro Maggio shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

HIPOLITO MORA LORILLA

The bill (S. 1549) for the relief of Hipolito Mora Lorilla was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Hipolito Mora Lorilla shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

BILLS PASSED OVER

The bill (S. 1760) for the relief of Dr. Margot R. Sobey III was announced as next in order.

Mr. MANSFIELD. I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1781) for the relief of Antonio Credenza was announced as next in order.

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

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

APOSTOLOS GERONTIS

The bill (S. 1822) for the relief of Apostolos Gerontis and his wife, Anastasia was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Apostolos Gerontis and his wife, Anastasia, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct two numbers from the appropriate quota for the first year that such quota is available.

ALVA ARLINGTON GARNES

The bill (S. 1829) for the relief of Alva Arlington Garnes was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of sections 101(a)(27)(A) and 205 of the Immigration and Nationality Act, the minor child, Alva Arlington Garnes shall be held and considered to be the natural-born alien child of Mr. and Mrs. Cecil Edgar Taitt, citizens of the United States: *Provided,* That no natural parent of the beneficiary, by virtue of such parentage, shall be accorded any right, privilege, or status under the Immigration and Nationality Act.

MRS. WILLIAM H. QUASHA

The bill (S. 1943) for the relief of Mrs. William H. Quasha was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Mrs. William H. Quasha, who was lawfully admitted to the United States for permanent residence on May 17, 1947, shall be held and considered to have complied with the residence and physical presence requirements of section 316 of the said Act and her petition for naturalization may be filed with any court having naturalization jurisdiction,

DR. GABRIEL ANTERO SANCHEZ (HERNANDEZ)

The bill (S. 1976) for the relief of Dr. Gabriel Antero Sanchez (Hernandez) was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That Doctor Gabriel Antero Sanchez (Hernandez) may be naturalized upon compliance with all of the requirements of title III of the Immigration and Nationality Act, except that no period of residence or physical presence within the United States or any State shall be required in addition to his residence and physical presence within the United States since September 13, 1960.

WILLIAM MAURER TRAYFORS

The bill (S. 2085) for the relief of William Maurer Trayfors was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of paragraph (7) of section 301(a) of the Immigration and Nationality Act, William Hoff Trayfors, Junior, a citizen of the United States, shall be held and considered to have been physically present in the United States, prior to the birth of his minor son, William Maurer Trayfors, for a period of five years after the said William Hoff Trayfors, Junior, had attained the age of fourteen years.

NICK MASONICH

The bill (H.R. 1221) for the relief of Nick Masonich was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 703), explaining the purposes of the bill.

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

PURPOSE

The purpose of the bill is to pay Mr. Nick Masonich the sum of $17,000 as final and full settlement of all his claims against the United States arising from an accident that occurred in 1921 which resulted in the loss of his sight.

STATEMENT

H.R. 1221 is a companion bill to S. 29, now pending before this committee. The House of Representatives in its consideration of H.R. 1221 reduced the amount sought by the claimant from $53,946.78 to $17,000, for the reasons that will appear in the language of the House report, which is herein set forth:

"Mr. Masonich suffered the injuries which eventually resulted in the complete loss of his sight on August 17, 1921, when he was working with a station gang employed by the Alaskan Engineering Commission.

"If Mr. Masonich had been injured while working as an employee of the Alaskan Engineering Commission he would have been eligible for benefits provided by the Federal Employees' Compensation Act. However, due to the circumstances of his employment, as more fully described in the attached report of June 26, 1963, from the Department of the Interior, he was not considered to be an employee of the United States within the meaning of the act of September 7, 1916, and hence was not eligible for benefits. The Department in indicating that it has no objection to the bill, if amended as suggested, stated:

" 'We believe that there is merit to the argument that the Alaskan Engineering Commission's method of subcontracting construction work to individuals may have unduly deprived Mr. Masonich of the rights and benefits of disability compensation coverage without provision for any alternative protection of compensation.'

"The records before the committee reveal that Mr. Masonich was hopitalized for a long period after the explosion which injured his eyes, and underwent numerous operations culminating in the removal of his right eye in 1939 and surgery in 1955 ending in complete blindness of the left eye. Except for the initial 19 days of hospitalization in Anchorage, Alaska, Mr. Masonich has had to pay all hospital, medical, surgical, and other expenses associated with the accident. Prior to 1955, he worked at the Wisconsin State Workshop for the Blind and was able to support himself without the aid of blind payments. Since 1955 he has received Federal payments to the blind through the Milwaukee County Public Welfare Department. Mr. Masonich is 67 years old, has no other income and no close relatives to rely on for other support.

"In the 1st session of the 69th Congress, Senate Report No. 523 on S. 2348 recommended a monthly pension for Mr. Masonich out of the Federal employees' compensation fund based upon wages of $100 per month at the time of the injury. An amended version of this bill was enacted in the 2d session, 69th Congress, awarding Mr. Masonich the sum of $5,000. The measure was signed by the President March 1, 1927, at a time before Mr. Masonich had lost his right eye.

"The present bill proposed to pay Mr. Masonich the sum of $53,944.78 as lifetime permanent disability benefits calculated from the date of injury in 1921. The Bureau of the Budget recommended that the amount of award should not exceed $17,000, representing the approximate present actuarial value of the prospective payments that would be payable under the Federal Employees' Compensation Act to a Federal employee earning the same salary and suffering the same injuries at the same time as Mr. Masonich."

This committee agrees with the House Judiciary Committee that the suggested reduction in the amount of the claim to $17,000 represents a fair and equitable amount for payment. While the committee has always been reluctant to approve claims against the Government arising from injuries which were sustained so many, many years (August 17, 1921) before relief is granted, it must take cognizance of the fact that it was subsequent to surgery in 1955 when complete blindness of the left eye, the right eye having been previously removed, was an end result of the old injury. It is, therefore, recommended that H.R. 1221 be favorably considered.

Attached hereto and made a part hereof are communications to the House Judiciary Committee from the Department of the Interior and the Department of Labor in connection with the proposed legislation. Neither Department is opposed to the enactment of the bill in the amount recommended by the Bureau of the Budget.

DR. JAE H. YANG

The bill (H.R. 1271) for the relief of Dr. Jae H. Yang was considered, ordered to a third reading, was read the third time, and passed.

BILLS PASSED OVER

The bill (H.R. 1273) for the relief of Bay Kow Jung was announced as next in order.

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

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (H.R. 1414) for the relief of Jan and Anna Smal was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (H.R. 1432) for the relief of Pasquale Marrella was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

JOHN WILLIAM HORLING

The bill (H.R. 1475) for the relief of John William Horling was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 708), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to relieve John William Horling, U.S. Navy (retired), of Grand Rapids, Mich., of all liability to repay to the United States the sum of $22,756.34, representing salary paid to him in violation of the Dual Employment Act (the act of July 31, 1894, 28 Stat. 162, 205), while he was an employee of the Post Office Department.

STATEMENT

Information before the committee reveals that John William Horling retired from the U.S. Navy on September 1, 1955, in the rank of chief warrant officer after more than 22 years of honorable service. In order to support a family of four in 1956, Mr. Horling sought to supplement his retirement income of about $2,874 a year by seeking employment.

Section 212 of the Economy Act of 1932 (5 U.S.C. 59a), also referred to as the Dual Compensation Act, permits retired employees to receive combined civilian and retired pay up to a $10,000 limit inserted in the law by a 1955 amendment. Mr. Horling has learned through the Navy of this amendment and assumed that his case was governed by this law.

Custodial employees were needed at the Grand Rapids, Mich., post office and he took the civil service examination for the position. He was selected and on November 27, 1956, was employed by the Post Office Department at that post office. The Navy Finance Center on November 27, 1956, advised the post office at Grand Rapids that Mr. Horling might be subject to the restrictions on dual employment. Immediately on receipt of this notice, the postmaster on November 28, 1956, inquired of the regional director of the seventh U.S. civil service region in Chicago as to whether civil service regulations barred the appointment of an employee receiving retired pay from the U.S. Navy. The postmaster included in his letter the facts concerning Mr. Horling's employment, including the fact that his application form 60 was in the hands of the Civil Service Commission. This form fully declared his status as a retired Navy warrant officer. The reply from the regional director for the seventh U.S. civil service region merely referred to section 212 of the Economy Act in answer to the postmaster's question about Mr. Horling's status. The letter made no reference to the dual-employment statute. Section 212 of the Economy Act of 1932, known commonly as the dual-compensation statute, limits the total combined income derived from a Federal civilian office or position (whether elective or appointive) and from retired pay in any 1 calendar year to $10,000.

The regional director's letter failed to refer to the still effective limitations of the 1894 dual-employment statute, and also failed to apprise the postmaster of the fact that the 1894 act precluded Mr. Horling's employment. In view of the lack of reference to the dual-employment statute, the postmaster concluded that Mr. Horling was eligible for employment.

The applicable provisions of the Dual Employment Act provide that no person who holds an office, the salary or annual compensation attached to which amounts to the sum of $2,500, shall be appointed to or hold any other office to which compensation is attached unless specifically authorized by law.

Over 5½ years later, the postmaster received an inquiry from the Navy which prompted him to again contact the regional director of the seventh U.S. civil service region. At that time he specifically inquired whether the act of July 31, 1894, applied to Mr. Horling. On June 25, 1962, the regional office of the Post Office Department informed the postmaster that the General Counsel of the Department had ruled that Mr. Horling's appointment on November 17, 1956, was illegal and void. This information was finally received 5 years and 7 months after the appointment was made. During this entire period, Mr. Horling had faithfully performed his janitorial duties and was paid for his services.

Mr. Horling is now 54 years of age. He is married and has two children; a 20-year-old son who is serving in the Navy, and a 16-year-old daughter who remains at home. He is presently working as a maintenance employee in private industry and has a take-home pay of $79 per week. The requirement that Mr. Horling repay the full $22,501.04 that he was paid for his services as a janitor for over a 5½-year period has imposed an unconscionable burden upon Mr. Horling and his family. It has made it impossible for him to purchase a home, for this indebtedness has caused both a bank and the FHA to refuse him a loan in connection with such a purchase.

The Post Office Department in its report to the committee on the bill details the history of Mr. Horling's employment with that Department and indicates that it would have no objection to the enactment of the bill.

This committee is impressed by the fact that throughout the period involved Mr. Horling served in a relatively low-paying position and rendered services to the United States. To allow this situation to continue for over a 5½-year period and then hold that the compensation must be repaid is clearly inequitable. This places the Government in a position of gaining the benefit of the services rendered while denying Mr. Horling compensation for those services. This case is clearly a matter for legislative relief. Mr. Horling should not be charged with this liability when his employment was allowed to continue for a period in excess of 5½ years due to a series of conflicting interpretations and administrative errors. Accordingly, it is recommended that the bill be considered favorably.

Attached hereto and made a part hereof are reports submitted by the Post Office Department, the Department of the Navy, and the Comptroller General of the United States.

CHING HEING YEN AND CHING CHIAO HOANG YEN

The bill (H.R. 1495) for the relief of Ching Heing Yen and Ching Chiao Hoang Yen was considered, ordered to a third reading, was read the third time, and passed.

MRS. SANDRA BANK MURPHY

The bill (H.R. 1542) for the relief of Mrs. Sandra Bank Murphy was considered, ordered to a third reading, was read the third time, and passed.

RELIEF OF CERTAIN ENLISTED MEMBERS AND FORMER ENLISTED MEMBERS OF THE AIR FORCE

The bill (H.R. 1545) to provide for the relief of certain enlisted members and former enlisted members of the Air Force was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the Report No. 711, explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to credit the named enlisted members of the Air Force with payments made by them to a civilian clerk at the Manhattan Beach Air Force Station against certain overpayments erroneously received, which payments were appropriated by the clerk to his own use. Additionally, payment is authorized to those individuals named who made repayments both to the United States and the civilian clerk of the excess by which such total repayments exceed the amount due the United States.

STATEMENT

The Department of the Air Force, in a letter to the Congress, has reported that it has no objection to the enactment of the bill.

The Comptroller General of the United States, in a letter to the Congress, has reported that he has no objection to favorable consideration of the bill should Congress determine that there is sufficient equity in the matter.

In its favorable report on the bill the Committee on the Judiciary of the House of Representatives has set forth the facts in the case and its recommendations as follows:

H.R. 1545 was introduced to provide relief to 27 enlisted members and former enlisted members of the Air Force who were the innocent victims of fraudulent transactions by a civilian clerk. During the processing of members returning from oversea duty for separation or transfer to a new duty station, the clerk devised a scheme to falsify pay and allowance records so that overpayments were made. After the enlisted men had received their final payments, the clerk contacted each privately, informed him of the overpayment, and attempted to collect the repayment due in exchange for what appeared to be a valid official receipt which had been made out in advance. The money paid by the member to the clerk was not turned in to the account of the finance officer, nor was the member given credit on official records for making repayment of any portion of the overpayment.

The perpetrator of this ingenious scheme was apprehended, tried, and convicted. After a review of the facts and circumstances surrounding the overpayments, the Air Force determined that the enlisted men were liable for the full amount of the overpayments. The Air Force, in reporting no objection to enactment of the proposed legislation, stated as follows with respect to the sums involved:

"Upon determination that the members who received the overpayments were in fact

indebted to the United States, the Air Force initiated action to collect the amount of the overpayment each had received. As of January 23, 1963, of the 27 persons listed in H.R. 1545, 17 were out of service and 10 were on active duty. Payments totaling $3,043.70 made to 10 of the individuals had been certified to the Claims Division, General Accounting Office, as uncollectible. The Air Force had collected a total of $9,904.70 from 17 members and former members; the balance due from these 17 individuals was $2,797.28. Collection action has been suspended at the request of Representative RODINO and with the concurrence of the Comptroller General. If H.R. 1545 is enacted, 11 of the 17 members will be entitled to refunds, totaling $1,328,12. Three individuals who received larger overpayments than the amounts paid to Mr. Lorenz will still owe small amounts, the total of which is $35.10. The Air Force has no information on the status of collection with respect to the 10 cases which have been referred to the General Accounting Office as uncollectible."

"It is recognized that the civilian clerk was not an authorized agent to collect moneys due the United States. Therefore, the payments made to the clerk could not be construed as fulfilling the enlisted men's obligation to make restitution of the overpayment received. However, it does not seem fair and equitable for the enlisted men to bear the burden resulting from the evil deed of the civilian clerk. Accordingly, the committee recommends that the bill, as amended, be considered favorably."

The committee believes that this is a proper matter for equitable relief by private legislation and accordingly recommends the bill favorably.

Attached and made a part of this report are (1) a letter from the Department of the Air Force, dated April 23, 1963, and (2) a letter from the Comptroller General of the United States, dated January 30, 1963.

The amendments to the bill recommended by the Department of the Air Force in its letter were made in the bill as it was passed by the House of Representatives.

MRS. ANNIE ZAMBELLI STILETTO

The bill (H.R. 1566) for the relief of Mrs. Annie Zambelli Stiletto was considered, ordered to a third reading, was read the third time, and passed.

ZOLTAN FRIEDMANN

The bill (H.R. 2305) for the relief of Zoltan Friedmann was considered, ordered to a third reading, was read the third time, and passed.

HURLEY CONSTRUCTION CO.

The bill (H.R. 2944) for the relief of Hurley Construction Co. was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 714), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to pay the Hurley Construction Co., St. Paul, Minn., the sum of $19,664, representing costs incurred in the construction of family housing at Duluth Air Force Base for which no compensation has been made.

STATEMENT

The Department of the Army has no objection to the bill.

The facts concerning this matter are set forth in the favorable House report, as follows:

"During the performance of the contract for construction of 50 type-E family units at the Duluth Air Force Base, Duluth, Minn., the Hurley Construction Co. incurred additional costs because of changes in specifications, alleged delays attributable to the Government, and numerous modifications as set forth in the proposed legislation, all at the insistence of the contract officer for the Government.

"On May 26, 1961, the Corps of Engineers Board of Contract Appeals decided in favor of the contractor on all items in dispute with one exception. Subsequent negotiations resulted in an agreement that an additional $50,413.87 was due the contractor. Only $30,794.87 of this amount could be and was paid, however, because of the limitation in the 1956 Department of Defense Appropriation Act of costs to the sum of $12,000 per unit for type-E housing.

"The sum of $19,664, as provided in the bill, represents the excess cost for 50 family units of $398.28 per housing unit above the $12,000 limitation. The renegotiated contract provided that the unpaid balance of $19,664 would be paid by supplement, providing the necessary authorization for payment in excess of the statutory limitation was subsequently obtained.

"The Department of the Army interposes no objection to the bill, and stated: 'Since the only reason for not paying the balance was the statutory limitation, it would be against justice and good conscience for the Government to refuse to compensate the contractor.' Under these circumstances, the committee concludes that equity requires payment of the uncompensated costs incurred by the Hurley Construction Co. Accordingly, the committee recommends that the bill be considered favorably."

FERENC MOLNAR

The bill (H.R. 3366) for the relief of Ferenc Molnar was considered, ordered to a third reading, was read the third time, and passed.

MRS. MARGARET PATTERSON BARTLETT

The bill (H.R. 3662) for the relief of Mrs. Margaret Patterson Bartlett was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 716) explaining the purposes of the bill.

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

PURPOSE

The purpose of the bill is to pay $10,000, free of Federal tax liability, to Mrs. Margaret Patterson Bartlett as compensation in lieu of living quarters as part payment for property acquired from her for the Andrew Johnson National Monument in Greeneville, Tenn.

STATEMENT

In a favorable report on the proposed legislation the Department of the Interior commented that it recommended enactment of the bill to compensate Mrs. Bartlett but that the Department was not in a position to express an opinion as to the correctness of the amount to be paid.

The bill, as introduced in the House of Representatives, provided for the payment of $15,000 to the claimant. The Committee on the Judiciary of the House of Representatives reported that after a full consideration of the facts it was the committee's judgment that a payment of $10,000 would constitute a fair and equitable settlement of the matter. The bill was accordingly amended by the Committee on the Judiciary of the House to provide for the payment of $10,000.

In its favorable report to the Congress the Department of the Interior set forth the facts as follows:

"In 1941, Mrs. Margaret Patterson Bartlett and her mother, Mrs. Andrew Johnson Patterson, agreed to sell the Andrew Johnson homestead and other property to the Federal Government for $44,000. Negotiations leading to this agreement were carried on by correspondence between Mrs. Andrew Johnson Patterson and the then Director of the National Park Service.

"In a letter of January 22, 1941, this Director referred to five conditions Mrs. Patterson had presented before she and her daughter would sell. In recapitulating the conditions, the Director wrote that he understood one of Mrs. Patterson's conditions to be as follows: '* * * That, when the monument is established, this Service will endeavor to obtain funds as soon as possible to do such work as may be necessary to one of the houses on the monument area so it can be used as a residence for the monument superintendent and be occupied by you and Miss Patterson, with the understanding that quarters deductions will be made from Miss Patterson's salary to cover such occupancy.'

"He concluded this letter, thusly: 'The sale of the above-mentioned property, owned by you and Miss Margaret Patterson, must be entirely independent, of course, so far as the legal requirements and documents are concerned, of any of the above-mentioned conditions, to which you and this Service's representatives have agreed, as such conditions will have to be worked out administratively.'

"In a subsequent letter, written on April 30, 1941, the Director, writing to Mrs. Patterson, said: 'The only way we can proceed [sic] is in accordance with the procedure outlined in our letter of January 22. We are willing to take the steps outlined in that letter as they are considered by this Service to be administratively desirable. Moreover, you will note that this procedure would accomplish essentially the same things which you have in mind but which cannot, as we have advised you, be set forth as conditions in connection with the sale of the land and other property involved to the Government.

"'We do not now foresee any possibility that these steps will not be carried to final and satisfactory conclusions * * *.

"'In the event you are willing to modify your position to the extent that the five conditions you have coupled with your offer are no longer legal conditions of the proposed sale and in lieu of which you will rely upon such administrative steps as the Government may be able to take as set forth in our letter of January 22, we have attached for your convenience and consideration a form of option.'

"From the foregoing, it is apparent that Mrs. Patterson and Mrs. Bartlett entered into the sale of their property to the United States relying 'upon such administrative steps as the Government may be able to take' to fulfill the conditions she had stipulated, including the providing of a residence on the monument area for Mrs. Patterson and her daughter, Miss Margaret Patterson, now Mrs. Margaret Patterson Bartlett.

"It is evident from our records that conditions brought on by World War II interfered with this Department carrying out the commitment made to Mrs. Patterson relative

to providing a residence on the monument for her and her daughter. As an alternative, this Department permitted Mrs. Patterson and her daughter to continue to occupy the Andrew Johnson homestead. This arrangement was continued by Mrs. Bartlett after the death of her mother.

"By 1956, the Department had restored as nearly as possible the Andrew Johnson home to the condition it was in at the time Andrew Johnson and his family occupied it. Mrs. Bartlett then agreed to vacate the premises so that the home could be displayed to visitors without the intrusion of evidence that it was continuing to serve as a modern dwelling.

"At the time Mrs. Bartlett vacated the premises, she expressed, and continued to do so, the feeling that the Federal Government had a moral obligation to provide a residence for her in lieu of the quarters which had been furnished to her in the Andrew Johnson house. The late Congressman Carroll Reece, who had an intimate firsthand knowledge of the negotiations which led to the U.S. purchase of the Andrew Johnson property, fully concurred in, and supported, Mrs. Bartlett's views on this point.

"Though we recognize that a moral commitment to build a residence on the monument grounds for their occupancy was made to Mrs. Patterson and Mrs. Bartlett in 1941, we feel that it would be highly unsatisfactory to carry it into effect now because a modern intrusion would be completely incompatible with the aims of the Department to depict as accurately as possible the historical scene as it was when the events occurred which justify preserving it.

"We, accordingly, recommend the enactment of the bill as a means of discharging what we consider a moral obligation on the part of the United States toward this great-granddaughter of a former President of the United States.

"S. 3276 is similar to H.R. 4964, except that (1) the payment to Mrs. Bartlett provided in the Senate bill is $17,000 as against $10,000 in the House bill, and (2) the Senate bill contains no provision similar to the provision in the House bill that the payment 'shall not be subject to any Federal tax liability.'

"Although the payment authorized by the Senate bill is substantially higher than that in the House bill, we are unable to say whether the amount in the Senate bill is more, or less, appropriate than that in the House bill. We recognize that, being private relief bills, the pending legislation is in the nature of an exercise of congressional equity in a situation where no legal right of action is involved.

"We are unable to ascertain with any precision the amount of monetary loss sustained by Mrs. Bartlett. The commitment made by former Director Drury in his letter of January 22, 1941, was for the use of a Government house by Mrs. Patterson and Miss Patterson (now Mrs. Bartlett) 'with the understanding that quarters deductions would be made from Miss Patterson's salary to cover such occupancy.' In other words, the arrangement contemplated was that of furnishing quarters to Mrs. Bartlett as a Government employee, she, in turn, to make the payments customarily made by employees who occupy Government quarters. In fact, Mrs. Bartlett did occupy Government quarters until July 1, 1956. She is still employed by the National Park Service but since the 1956 date has not occupied Government quarters.

"Presumably, a measure of her loss would be the difference between the amount she was required to pay for non-Government housing from 1956 to date and the amount which she would have paid if Government quarters had been available, plus the additional amount she may pay in the future until the termination of her Government employment. We have no information as to the amount she has actually paid for housing from 1956 to date nor do we have any basis upon which to compute her future costs.

"Another possible loss not subject to quantitative measure may be the inconvenience of living away from the scene of her employment in nongovernmental quarters.

"The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program."

The committee believes that the bill, as amended by the House of Representatives to pay $10,000, free of tax liability, to Mrs. Bartlett is meritorious and recommends it favorably.

JEUNG SING

The bill (H.R. 3908) for the relief of Jeung Sing, also known as Chang Sheng and Rafael Chang Sing was considered, ordered to a third reading, was read the third time, and passed.

SMITH L. PARRATT AND MR. AND MRS. LLOYD PARRATT

The bill (H.R. 4141) for the relief of Smith L. Parratt and Mr. and Mrs. Lloyd Parratt, his parents, was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 718), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to waive applicable limitations so as to permit an action to be brought under the tort claims provisions of title 28 based up the injuries suffered by a 10-year-old boy, Smith Parratt, when he was mauled by a grizzly bear while a member of a party of five led by two park rangers on a hike in Glacier National Park on July 18, 1960.

STATEMENT

The Department of the Interior in a letter to the Congress has reported that it has no objection to the enactment of the bill.

The Committee on the Judiciary of the House of Representatives in its favorable report on the bill has set forth the facts in the case as follows:

"On July 18, 1960, Smith Parrett, age 10, was invited by two park rangers to take a hike with the rangers up one of the regular park trails, the Rose Creek Trail, to Lake Otokomi. At about 3:30 in the afternoon, their hiking party was returning from the lake down the trail. The party consisted of five people and was led by Ranger Edomo Mazzer. The party included Ranger Allan Nelson, Smith Parrett, and two visitors from Sweden, Gote Nyhlen and Brita Noring. The party was approaching a lake, at approximately the 8,000-foot level, with Smith Parrett hiking behind the lead ranger, when the ranger turned screaming "There's a grizzly bear with cubs—run," and "Climb up in a tree." The grizzly bear, about 200 yards up the trail, charged. Three of the five were injured. Smith Parratt, the 10-year-old boy, was injured most severely. He nearly lost his life.

"A good indication of the extent of the injuries suffered by the boy is given by the following description by Lewis L. Reece, M.D., who treated him after he was brought down to the ranger station campground area:

" 'The first victim to be brought to the ranger station campground area was the Parratt boy, about 10:30. He was conscious, and talked some. He was found to be suffering of mutilation of the face and scalp with a disengorgement of both eyes and avulsion of the right check. He also had a fracture of the distal end of the right humerous. Also sever laceration and crushing injury to the right chest. His right arm was splinted and placed in a sling. His head was bandaged and an intravenous was started of normal saline. He was placed in the ranger ambulance with an attendant to hold the intravenous solution and two people (campers) were sent along. Type O universal blood donors were sent along for possible blood transfusion.'

"The injured boy was taken to the Cardston Memorial Hospital in Alberta, Canada, which is some 35 miles north of St. Mary. The committee is advised that the opinion of the physicians was initially that Smith Parratt didn't have any chance and that if he did survive he would be blind. The doctors continued their procedures and operations, and the series was completed late the morning of July 19, 1960. Since that time the boy has had numerous operations and procedures. On October 4, 1962, the eighth operation was performed at Children's Hospital in Los Angeles, Calif. This most recent operation was for the removal of two ribs which had been infected because of the penetration of the teeth of the bear into the chest in the original injury. The necessity for this eighth operation became apparent when a huge abscess appeared on the back of Smith Parratt in the late summer of 1962. All of these operations, and especially the last one, have had great physical and mental drain on him, as well as on the parents. The boy has, of course, lost much schooling, and Mrs. Parratt has given up teaching for 3 years in order to take care of her son and help him do homework and home schooling.

"In the future, Smith Parratt faces at least 2 more years of operations, including reconstruction of crushed orbital bones, removal of scar tissue, reconstruction of the bridge or of some nose shape, enlargement of the opening of the good eye (he has lost the use of one eye) so that vision may be more complete. There is also plastic surgery required to build up and reconstruct his facial tissues.

"Smith Parratt is already facing daily problems of being stared at by curious people, and even with the best of plastic surgery, he faces a life with permanent disability, diminished choice of jobs and earning capacity, and restricted participation in normal sports, recreational activities, and schooling. His medical costs already have come to over $10,000 out of pocket, and additional medical and surgical costs should come to at least $7,500. These medical costs of course do not include the more general losses mentioned above, and the pain and suffering and anxiety not only to the boy but to the parents.

"This committee has carefully weighed the basis for the relief which would be afforded by this bill. At the outset, it is clear that this bill would merely waive limitations so that a court can pass upon the question of the liability of the United States based upon these facts. Under the particular circumstances of this case, the committee finds that legislative relief, as provided in the bill, should be granted. As is obvious from the Interior Department report, the parents did not bring suit within the 2-year period immediately following the attack on their son. It appears that the father did immediately begin gathering evidence and facts concerning the accident. Further, as noted in the

Interior Department report, he did not want to commence suit against the Government, and the facts therefore indicate that he did not want to assert such a claim without adequate preparation and assembly of facts. Yet, however this may be, the committee feels that the rights of the boy were prejudiced by a failure to commence an action within the time limit. It is obviously unfair to deny this seriously injured boy his day in court. Further, since the facts concerning the case remain available to the Government, the United States will not be unduly prejudiced by a waiver of the statute of limitations in this instance. Accordingly, it is recommended that the bill be considered favorably."

The committee believes that the bill is meritorious and recommends it favorably.

MRS. M. ORTA WORDEN

The bill (H.R. 4288) for the relief of Mrs. M. Orta Worden was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 719), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is to pay to Mrs. M. Orta Worden the sum of $10,864.89 in full settlement of all claims against the United States resulting from injuries sustained by her in a fall on April 25, 1958, at the class VI concession building at Nouasseur Airbase, Casablanca, Morocco.

STATEMENT

The Department of the Air Force, while objecting to a similar bill which would waive the 2-year statute of limitations under section 2733 of title 10, United States Code, states in its report on that bill as follows:

"It is recognized that the Air Force had a legal obligation to maintain, in a safe condition, the building in which the accident occurred and that the Air Force exchange involved did not carry liability insurance. Should the Congress believe that Mrs. Worden is entitled thereto, the Air Force would not be opposed to an award of damages in the amount Congress considers equitable."

The House of Representatives in Report No. 546 on H.R. 4288 amended the bill to pay the sum of $10,864.89, and in connection with the claim states as follows:

"Mrs. Worden, wife of an Air Force employee, suffered injuries when she tripped over a metal strip protruding from the floor as she was leaving the front entrance of the Air Force exchange concessionaire building at Nouasseur, Morocco. She received a wound above the angle which bled profusely, and was taken immediately to the base hospital in a Government ambulance. It was determined that she had suffered a compound fracture of her right leg and a sprained left ankle. The base physician's report concerning the initial hospitalization states:

" 'The patient sustained a compound comminuted fracture of the lower third of the right tibia which underwent emergency debridement and open reduction with internal fixation on the day of admission. At surgery, the patient early in the operative procedure underwent laryngospasm, and after the application of a single screw, the patient underwent hypotension with diminished heart sounds and an absence of radial pulse. At this point in the operative procedure, it was chosen to terminate the procedure as quickly as possible and arouse the patient by use of stimulants, vasopressers, and oxygen. The initial screw which had been placed in the tibia was about one-fourth inch longer than desired and it was the surgeon's plan to remove this screw and replace it by a shorter one after a second screw had been secured in place. Both the plan to change the initial screw and to put a second screw in position had to be abandoned when the above circulatory failure was evident. While applying a long-leg plaster cast, the fracture site could be felt to have moved. It was necessary, consequently, to wedge the fracture in plaster after the patient was fully revived.'

"Military medical records indicate that Mrs. Worden responded satisfactorily to the initial treatment but that, because of the interrupted operation, her ankle was not placed in functional position as would be desirable. Subsequently she was hospitalized in the Air Force hospital at Weisbaden, Germany, from which she was discharged on May 28, 1958. She then returned to the United States and consulted her own orthopedic physician. Almost all of 1958 was spent in a wheelchair with the right leg elevated. The final cast was removed in September 1959 but Mrs. Worden found it necessary to utilize crutches until July 1960. It also appears that the screw placed in the leg during the operation in Morocco, which screw was found to be one-fourth inch too long, actually kept the fracture apart and delayed healing. In January 1961, a private physician removed the screw. Thereafter, Mrs. Worden's recovery was satisfactory, although the weakened foot and ankle bones made normal walking and standing somewhat painful for an extended period.

"The bill as introduced provided that the claim of Mrs. Worden should be considered as timely filed notwithstanding the statutory requirement that the claim be presented to the Department of the Air Force in writing within 2 years of the occurrence of the incident involved. At a hearing held on June 19, 1963, before the subcommittee to whom the bill was assigned, it was established that written notice of intention to file a claim was submitted to the claims officer at Nouasseur Air Force Base on May 2, 1958; that is, 1 week after the accident. Mrs. Worden and her husband were advised to wait until all medical bills and records of the hospitalization and treatment were available to file so that the claim could be for a sum certain. Because of the prolonged period of medical treatment, it was not until June 23, 1961, that a claim for $10,864.89 was submitted to the Department of the Air Force. On February 19, 1962, the claim was denied because it had been filed after the expiration of the 2-year period from the date of injury.

"At the hearing it became evident that the matter should be resolved not by a waiver of applicable limitations, but rather by direct congressional action. The testimony presented by the claimant's representative and the Air Force clearly establish liability for the injury. Medical expenses totaling $2,164.89 are verified by itemized bills and receipts. Additionally, the sum of $8,700 is claimed as lost wages for 1958, 1959, and 1960. This amount is calculated on the basis of an average annual earned salary by Mrs. Worden of $2,900 for the 10-year period prior to the accident. Income tax withholding statements and pay records were submitted to the committee to support this calculation. It is also to be noted that no amount has been claimed for pain and suffering. In the view of the committee, the amount claimed is reasonable in the light of Mrs. Worden's medical history following the injury.

"The Department of the Air Force has indicated that it feels that the payment of compensation to Mrs. Worden for her injury is a matter for congressional decision. The record in this matter clearly establishes responsibility for the injury, and evidence that the sum of $10,864.89 is justified and reasonable as compensation therefor.

"Subsequent to the hearing on H.R. 4288, the Bureau of the Budget submitted an adverse report on the bill in which it suggested that, should a valid justification for enactment of the bill be found, payment of the claim should be made not out of the general funds of the Treasury but from exchange funds. This suggestion was based on the understanding that claims arising in an Air Force exchange are paid from reserves set up by the exchange services for this purpose. The subcommittee inquired into the matter of responsibility in service exchanges and was advised that claims arising in the interior of an exchange building are the responsibility of nonappropriated funds, but that the exterior of buildings, entranceways, etc., are the responsibility of Air Force maintenance personnel. Under the facts in this case, it was testified, since the accident in which Mrs. Worden was involved occurred at the entranceway of the exchange building it was an Air Force appropriated responsibility. Under these circumstances, the committee recommends that the bill, as amended, be considered favorably."

The committee, after a review of all of the foregoing, concurs in the action of the House of Representatives and recommends that the bill, H.R. 4288, be considered favorably.

ANGELIKI DEVARIS

The bill (H.R. 4507) for the relief of Angeliki Devaris was considered, ordered to a third reading, was read the third time, and passed.

ELIZABETH MARY MARTIN

The bill (H.R. 4760) for the relief of Elizabeth Mary Martin was considered, ordered to a third reading, was read the third time, and passed.

BILL PASSED OVER

The bill (H.R. 4862) for the relief of Tricia Kim was announced as next in order.

Mr. MANSFIELD. Mr. President, I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

JOHN STEWART MURPHY

The bill (H.R. 5083) for the relief of John Stewart Murphy was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that the Senate reconsider the vote by which the bill was passed.

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

MRS. ZARA M. SCHREIBER

The bill (H.R. 5289) for the relief of Mrs. Zara M. Schreiber was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report

(No. 724), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation is that the written election, to provide the annuity specified in paragraph (1) of section 4(a) of the Uniformed Services Contingency Option Act of 1953 to his wife, Zara M. Schreiber, which was executed by Capt. Joseph S. Schreiber on November 14, 1953, stamped and notarized but not mailed prior to his death on November 18, 1953, shall be deemed to have been an effective election under section 3(b) of such act.

STATEMENT

According to the House report, testimony on this legislation was heard and it was established that Capt. Joseph S. Schreiber, the husband of the claimant, was retired from the U.S. Army on March 8, 1945, and was granted disability retirement pay. Under the Uniformed Services Contingency Option Act of 1953, retired military personnel had from November 1, 1953, to April 30, 1954, in which to elect to accept a reduced annuity and make provision for an annuity for their survivors. Under regulations promulgated by the U.S. Army, such election had to be in writing, signed, and delivered by April 30, 1954.

MRS. DENISE JEANNE ESCOBAR

The bill (H.R. 5453) for the relief of Mrs. Denise Jeanne Escobar (nee Arnoux) was considered, ordered to a third reading, was read the third time, and passed.

RELIEF OF CITY OF BINGHAMTON, N.Y.

The bill (H.R. 5495) for the relief of the city of Binghamton, N.Y., was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 726), explaining the purposes of the bill.

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

The Committee on the Judiciary, to which was referred the bill (H.R. 5495) for the relief of the city of Binghamton, N.Y., having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to authorize and direct the Secretary of the Treasury to pay to the city of Binghamton, N.Y., the sum of $10,130 in full settlement of all the claims of the city of Binghamton and Our Lady of Lourdes Memorial Hospital against the United States, for payment of civil defense matching funds for an emergency generator for an addition to such hospital.

STATEMENT

Pursuant to section 201(i) of the Federal Civil Defense Act of 1950, as amended, criteria are established and Federal financial contributions are made to the States for civil defense purposes and through the States to their political subdivisions.

During the winter and spring of 1960, Our Lady of Lourdes Hospital and the city of Binghamton investigated the possibility of coming within a program for financial assistance, then being conducted by the Office of Civil and Defense Mobilization. This program provided for the sharing by the Federal Government of the cost of auxiliary emergency generators to be placed in hospitals for use in connection with an overall civil defense operational plan for the Binghamton area.

"The project application and necessary supporting data were prepared and, on or about May 12, 1960, submitted by the city to the State of New York.

"The State of New York did not act upon the project application for the reasons that, under then existing administrative rules, new project applications were not being processed for fiscal year 1960 contributions. The State itself had set a cutoff date for submission of applications to it by political subdivisions of April 15. Region I of the Office of Civil and Defense Mobilization had set a cutoff date of May 15.

"Meanwhile, without approval either of the State or the Office of Civil and Defense Mobilization, the city went ahead with the procurement and, on or about May 13, 1960, issued invitations to bid on the generator. Bids were opened on May 25, 1960, and a contract awarded on June 1, 1960.

"In July 1960, the State returned the project application to the city which resubmitted it on July 21, 1960. The State passed it on to the regional office of the Office of Civil and Defense Mobilization. It reached there on August 8, 1960.

"During fiscal year 1960, there was in effect a regulation of the Office of Civil and Defense Mobilization which regulation had been in effect for many years previous and is still in effect. It provided that no contribution could be made for materials acquired prior to the beginning of the fiscal year for which the funds to be used for the contribution were appropriated. This regulation is based upon an application of the general rule that appropriations are for prospective expenditures and not retroactive unless specially provided. This is set forth in an opinion on the civil defense contribution program by the Comptroller General (31 Comp. Gen. 308).

"Incidentally, effective July 1, 1960, the Office of Civil and Defense Mobilization adopted a rule now in effect that no contribution would be made for materials acquired prior to the date of approval of the project application. This regulation had been published in the Federal Register on May 11, 1960.

"By the time the project application was presented to region 1 headquarters of the Office of Civil and Defense Mobilization, the only appropriation available for obligation for the contribution for the hospital generator was the fiscal year 1961 appropriation and, since the procurement had occurred in fiscal year 1960, it could not then legally be approved.

"The State and city were not immediately notified of this, probably because of a freeze which had been placed by region 1 on the processing of applications for hospital generators.

"Installation of the generator appears to have occurred during the fall of 1960. At least it was at this time that payment to the successful bidder was accomplished.

"OCDM might, had the project application been processed during fiscal year 1960, have approved it and provided the financial asistance. A civil defense purpose would have been (and for that matter still would be) served by the provision of assistance. The basic reasons for not acting in fiscal year 1960 involved administrative rules made by the region and the State in the interest of efficient administration of the program and applicable only there. The region 1 rule is no longer used."

The General Counsel of the Department of Defense, in reporting to the House Judiciary Committee on the merits of a similar bill of the 87th Congress, advised that committee that after July 1, 1960, the only course which could have been taken was denial of the application. The Department concluded, in view of the circumstances, that it would not object to relief in the instant case.

The committee is of the belief that this is a case meriting legislative relief. The installation of the generator was originally agreed upon as a civil defense measure, the hospital was significantly altered for such installation, and the generator certainly would serve the civil defense effort. This committee had taken favorable action for the relief of Elmore County, Ala., in settlement of that county's claims for reimbursement for one half of the cost of certain civil defense communications equipment. (H.R. 555, 87th Cong., 2d sess., act of October 23, 1962.)

Accordingly, the committee recommends favorable consideration of H.R. 5495, without amendment.

Attached hereto and made a part hereof is the report submitted by the General Counsel of the Department of Defense on a similar bill of the 87th Congress.

QUALIFICATION OF STEAMSHIP TRADE ASSOCIATION OF BALTIMORE-WATERFRONT GUARD ASSOCIATION PENSION FUND

The bill (H.R. 5753) relating to the effective date of the qualification of the Steamship Trade Association of Baltimore-Waterfront Guard Association pension fund as a qualified trust under section 401(a) of the Internal Revenue Code of 1954 was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 727), explaining the purposes of the bill.

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

PURPOSE

The purpose of the bill is to extend retroactive qualification under the Internal Revenue code to the pension plan of the Steamship Trade Association of Baltimore-Waterfront Guard Association from April 1, 1955, the date from which the collective bargaining agreement provided for employer pension contributions, until June 2, 1962.

STATEMENT

The Treasury Department has no objection to the enactment of the bill.

This committee has recommended favorably similar legislation extending retroactive qualification to pension plans under the Internal Revenue Code in similar situations.

In its favorable report on the bill the Treasury Department has commented:

"The Internal Revenue Service has ruled that this fund, which was established under a collective bargaining agreement, meets the requirements for qualification under section 401 of the Internal Revenue Code for taxable years ending after June 1, 1962. However, the fund does not so qualify for prior taxable years, although the collective bargaining agreement specified that employers were to make contributions to the fund as of April 1, 1955. This is because it was not until June 2, 1962, that a complete written pension plan, containing features essential to a qualified pension plan, was actually established."

The purpose of the bill is to give the employers concerned the right to deduct contributions made to the pension fund before it qualified under the Internal Revenue Code

in the year in which they made the contributions. The bill also would grant the fund exemption from tax on its investment income during the period before June 2, 1962, provided it is shown to the satisfaction of the Secretary of the Treasury, or his delegate, that the trust has not been operated in a manner which would jeopardize the interests of its beneficiaries.

The committee believes that the bill is meritorious and recommends it favorably.

Attached and made a part of this report is a letter, dated June 19, 1963, from the Treasury Department.

ERIC VOEGELIN AND LUISE BETTY ONKEN VOEGELIN

The bill (H.R. 5902) for the relief of Eric Voegelin and Luise Betty Onken Voegelin was considered, ordered to a third reading, was read the third time, and passed.

MARIANO CARRESE AND VINCENZINA CIAVATTINI RESTUCCIA

The bill (H.R. 6038) for the relief of Mariano Carrese and Vincenzwa Ciavattini Restuccia was considered, ordered to a third reading, was read the third time, and passed.

GENEROSO BUCCI CAMMISA

The bill (H.R. 6316) for the relief of Generoso Bucci Cammisa was considered, ordered to a third reading, was read the third time, and passed.

BILLS PASSED OVER

The bill (H.R. 6624) for the relief of Mrs. Concetta Foto Napoli, Salvatore, Napoli, Antonina Napoli, and Michela Napoli, was announced as next in order.

Mr. MANSFIELD. I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (H.R. 6806) for the relief of Shelburne Harbor Ship & Marine Co., was announced as next in order.

Mr. MANSFIELD. I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (H.R. 7268) for the relief of Mrs. Ingrid Gudrun Brown, was announced as next in order.

Mr. MANSFIELD. I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (H.R. 7601) for the relief of the city of Winslow, Ariz., was announced as next in order.

Mr. MANSFIELD. I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

MICHELLE SU ZEHR (LIM MYUNG IM)

The Senate proceeded to consider the bill (S. 633) for the relief of Michelle Su Zehr (Lim Myung Im) which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Michelle Su Zehr (Lim Myung Im) may be classified as an eligible orphan within the meaning of section 101(b)(1)(F) of the said Act and a petition may be filed by Byron D. Zehr and Patricia P. Zehr, citizens of the United States, in behalf of the said Michelle Su Zehr (Lim Myung Im) pursuant to section 205(b) of the Immigration and Nationality Act subject to all the conditions in that section relating to eligible orphans.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MARY G. EASTLAKE

The Senate proceeded to consider the bill (S. 1518) for the relief of Mary G. Eastlake which has been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That the service of Mary G. Eastlake, Nurse Director (retired), Public Health Service, performed while in the employ of the Bureau of Indian Affairs, Department of the Interior, before July 1, 1955, shall be deemed to be active service in the Public Health Service for the purpose of computing her retired pay from the Service as of the date of her retirement (December 1, 1962): *Provided*, That the increase in retired pay authorized by this Act shall not exceed the amount which would be payable as a Civil Service retirement annuity based on such service.

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 ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 736), explaining the purposes of the bill.

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

PURPOSE

The purpose of the proposed legislation, as amended, is to authorize the Public Health Service, for the purpose of computing the claimant's retired pay from that Service, to credit her with all of her service with the Bureau of Indian Affairs, Department of the Interior, as if such service had been performed for the Public Health Service rather than for the Bureau of Indian Affairs.

STATEMENT

In the report of the Department of Health, Education, and Welfare, commenting on S. 1518 and recommending an amendment, the facts of the case are set forth as follows:

"Mrs. Eastlake was a civil service nurse in the Bureau of Indian Affairs when the health functions of that Bureau were transferred from the Department of the Interior to the Public Health Service on July 1, 1955. She continued in a civil service position with the Service until March 12, 1956, when she was appointed as a commissioned officer in the Service's Reserve Corps. As a commissioned officer of the Reserve Corps, her coverage under the provisions of the Civil Service Retirement Act continued until she was appointed to the Regular Corps effective April 1, 1956. It was this action, appointment to the Regular Corps, that resulted in the transfer of Mrs. Eastlake to a position not within the purview of the Civil Service Retirement Act.

"The Civil Service Retirement Act, as it existed prior to October 1, 1956, provided that an employee subject to the act who transferred to a position not within the purview of the act could receive a refund of retirement deductions but otherwise lost all eligibility for an annuity under that act. However, under section 8(a) of Public Law 84-854 (5 U.S.C. 2258(a)) the Civil Service Retirement Act was amended to permit an employee who transferred on and after October 1, 1956, to a position not within the purview of the act to receive a deferred annuity at age 62 if the employee had not received a refund of contributions and had 5 or more years of civilian service.

"The Civil Service Commission in a ruling dated July 9, 1962, held that since Mrs. Eastlake's coverage under the Civil Service Retirement Act terminated on April 1, 1956 (when she was commissioned in the Regular Corps of the Public Health Service) prior to the effective date of the amended law (October 1, 1956), the provisions of the amended law do not apply in her case. It was further held that she was entitled only to a refund of her retirement deductions."

Thus, the present situation is that Mrs. Eastlake is being denied retirement credit for annuity purposes for the 18 years of civil service employment in the Bureau of Indian Affairs, which was identical in most respects to her subsequent service with the Public Health Service.

BILL PASSED OVER

The bill (S. 1951) for the relief of George Elias Nejame was announced as next in order.

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

Mr. MANSFIELD. I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

IVANKA PEKAR

The Senate proceeded to consider the bill (S. 1958) for the relief of Ivanka Pekar which had been reported from the Committee on the Judiciary, with an amendment, in line 7, after the word "fee.", to strike out "Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota control officer to deduct one number from the appropriate quota for the first year that such quota is available." and insert "Upon the enactment of this Act, the Attorney General shall reduce by one number the number of refugees who may be paroled into the United States pursuant to sections 1 and 2(a) of the Act of July 14, 1960 (74 Stat. 504), during the fiscal year ending June 30, 1964."; 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, for the purposes of the Immigration and Nationality Act, Ivanka Pekar shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the enactment of this Act, the Attorney General shall reduce by one number the number of refugees who may be paroled into the United States pursuant to sections 1 and 2(a) of the Act of July 14, 1960 (74 Stat. 504), during the fiscal year ending June 30, 1964.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REAR ADM. WALTER B. DAVIDSON

The Senate proceeded to consider the bill (H.R. 1395) for the relief of Rear Adm. Walter B. Davidson which had been reported from the Committee on the Judiciary, with an amendment, on page 2, line 17, after the word "section", to strike out "in excess of 10 per centum thereof".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 739), explaining the purposes of the bill.

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

PURPOSE

The purpose of the bill is to relieve Rear Adm. Walter B. Davidson, U.S. Navy, retired, of liability to repay to the United States the sum of $21,475.17, which is the amount of overpayments of retired pay to him during the period beginning November 13, 1958, and ending August 21, 1961, while he was employed by the Western Contract Furnishers, of San Francisco, Calif.; and to authorize the repayment to him of the amount withheld from him by the United States on account of the liability, and in addition such amounts as represent the balance of retired pay otherwise due for the period.

STATEMENT

The Comptroller General of the United States has advised the Congress that the question of whether Admiral Davidson should be relieved involves primarily a matter of policy for Congress to determine and, accordingly, has no recommendation concerning the merits of the bill.

The Department of the Navy has advised the Congress that it favors the enactment of the bill.

The facts in the case giving rise to Admiral Davidson's liability are set forth in the report of the Department of the Navy as follows:

"The facts in the case as disclosed by the records of the Department of the Navy are that Rear Admiral Davidson was placed on the temporary disability retired list in May of 1956 and permanently retired for disability in December of 1960. In June of 1958 he accepted employment with Western Contract Furnishers as an independent salesman.

"The Comptroller General noted that of five contracts awarded to the Western Contract Furnishers by the Navy during the period from November 13, 1958, to November 20, 1961, three resulted from bids which were signed by W. B. Davidson as assistant manager of the company. There three contracts are summarized as follows:

"(a) A contract awarded November 13, 1958, which covered mess furniture for the U.S. Naval Air Facility, Monterey, Calif., resulted from a bid and amendment thereto signed by W. B. Davidson, assistant manager.

"(b) A contract awarded May 19, 1959, which covered items of furniture for the Naval Air Station, Fallon, Nev., resulted from a bid signed by W. B. Davidson, assistant manager. There was also a modification to this contract which covered a change of upholstery fabric for one item, at no change in price; and the acceptance was signed for the company by W. B. Davidson, assistant manager.

"(c) A contract awarded February 28, 1961, which covered items of furniture for the Naval Air Station, Lemoore, Calif., resulted from a bid signed by W. B. Davidson, assistant manager.

"The Comptroller General's description of Admiral Davidson's conduct and actions with respect to the contract of February 28, 1961, as 'a series of negotiations' was an unfortunate term as applied to the facts in this case. In this connection, the record shows that after the first bid was submitted and signed by W. B. Davidson, assistant manager. There was a readvertisement and another bid submitted by the company, also signed by W. B. Davidson, assistant manager. There was a letter of February 17, 1961, verifying comments on the bid, and another letter of February 23, 1961, extending an option, both of which were signed by W. B. Davidson, assistant manager. A letter of March 9, 1961, contained modification No. 1 to the contract and incorporated a design change and provided for a price reduction. There was another letter which related to the preparation of two items of chairs, and constituted modification No. 2 to the contract. Thereafter an exchange of correspondence resulted in modification No. 3, which incorporated two minor design changes in the furniture and extended delivery time, but resulted in no change in price. There was also an exchange of correspondence between the company and the air station between May 10, 1961, and July 10, 1961, which related to the failure of the company to make timely deliveries of certain items under the contract. Each of the letters from the company to the air station was signed by W. B. Davidson, assistant manager.

"Admiral Davidson's relation to these contracts is clearly stated in the following extracts from a letter signed by Mr. Rex S. Stevensen, vice president and secretary of Western Contract Furnishers:

" 'As to the matter of you signing "assistant manager." You will remember that on several occasions we were late in submitting some bids, due to my absence from the office. To obviate a repetition of late bids awaiting my signature, I directed you to sign such bids thereafter as "assistant manager," simply as a means of expediency and convenience.

" 'The title as used, has no significance other than to satisfy a bid form. You are not, in fact, an assistant manager and you have no authority or prerogatives as such. Your duties and responsibilities are those of a salesman working on commission.'

"It is apparent that Admiral Davidson signed the bids in accordance with the arrangement with the vice president, and that his signature on subsequent correspondence was merely for purposes of identity of the contract. Admiral Davidson was not an official of the concern, had no authority to approve changes or modifications in the contract, and merely signed the correspondence as a ministerial act. In no case did Admiral Davidson sign any of these papers using his military title.

"Facts of record negate any intention on the part of Admiral Davidson to violate 10 U.S.C. 6112(b). On the contrary, they reveal an affirmative effort to avoid even the possibility of such violation through inadvertence or lack of information. Thus, on April 26, 1959, following receipt of a Navy Department notice to retired regular officers advising them of the Comptroller General's decision of January 6, 1959 (38 Comp. Gen. 470) Admiral Davidson addressed a letter to the U.S. Navy Finance Center, Cleveland, Ohio, outlining the nature of the business conducted by the Western Contract Furnishers; specifying in detail the nature of the work he performed as an employee of the firm; and specifically requesting an early clarification as to whether or not he could continue to carry on that phase of his work concerned with Federal Government contracts, and advice concerning any restrictions which might apply to him. Understandably, nonreceipt of a reply led him to conclude that his employment did not violate the only conflict-of-interest statute which could have been applicable in his case.

"Admiral Davidson's personal situation, furthermore, would militate against any intentional action on his part which would jeopardize his continued receipt of retired pay. When placed on the temporary disability retired list in 1956, with a 100-percent physical disability rating (arteriosclerosis, cerebral embolism, and acute bursitis), he was limited to seeking employment involving the minimum of physical exertion—a fact recognized by his employer. A heart attack in 1958, with attendant temporary incapacity, and the constant awareness that a recurrence, if not fatal, could permanently bar his further civilian employment and thus result in his complete dependence upon his retired pay for his own support and that of his invalid wife would, if there were any questions as to his good faith, have inhibited any action which could have resulted in forfeiture of this mainstay. These circumstances serve equally to highlight the hardship which he would encounter if the legislation now introduced on his behalf should fail enactment.

"The Department of the Navy favors the enactment of H.R. 12906."

The claimant has filed with the committee a personal statement setting forth the financial hardship involved.

From the information before it, it appears to the committee that Admiral Davidson received his retired pay in good faith; that he made a full disclosure to the Government in regard to his private employment; and a considerable financial hardship is involved.

Accordingly, the committee feels that this is a case which warrants relief by private legislation and recommends the bill favorably.

PEITRINA DEL FRATE

The Senate proceeded to consider the bill (S. 2084) for the relief of Peitrina Del Frate which had been reported from the Committee on the Judiciary, with an amendment, in line 4, after the word "Act,", to strike out "Peitrina" and insert "Pietrina"; 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, for the purposes of the Immigration and Nationality Act, Pietrina Del Frate shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill for the relief of Pietrina Del Frate."

MARIA MERGHETTI (MOTHER BENEDETTA) AND ANNUNZIATA COLOMBO (MOTHER CHERUBINA)

The Senate proceeded to consider the bill (H.R. 1289) for the relief of Maria

Merghetti (Mother Benedetta) and Annunziata Colombo (Mother Cherubina) which had been reported from the Committee on the Judiciary, with an amendment, in line 4, after the name "Maria", to strike out "Merghetti" and insert "Mereghetti".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "An Act for the relief of Maria Mereghetti (Mother Benedetta) and Annunziata Colombo (Mother Cherubina)."

CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

The Senate proceeded to consider the bill (S. 1169) to authorize a per capita distribution of $350 from funds arising from judgments in favor of any of the Confederated Tribes of the Colville Reservation which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 2, line 3, after the word "of", to strike out "proceedings" and insert "claims"; in line 4, after the word "Commission", to strike out "in dockets numbered 161, 179, 181–A, 181–B, 181–C, 222, and 224,", and in line 10, after the word "of", to strike out "$350" and insert "$350, to the extent that such funds are available,"; 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 the funds on deposit in the Treasury of the United States to the credit of the Colville Tribe, San Poells-Nespelem Tribe, Okanogan Tribe, Methow Tribe, and Lake Tribe (certain constituent groups of the Confederated Tribes of the Colville Reservation) that were appropriated to pay a judgment of the Indian Claims Commission dated March 1, 1960, in docket numbered 181, and the funds which may be deposited in the Treasury of the United States to the credit of the said constituent groups or any other constituent groups of the Confederated Tribes of the Colville Reservation to pay any judgments arising out of claims presently pending before the Indian Claims Commission and the interest on said judgments, after payment of attorney fees and expenses, shall be credited to the account of the Confederated Tribes of the Colville Reservation and the Secretary of the Interior is authorized and directed to make a per capita distribution from such funds of $350, to the extent that such funds are available, to each enrolled member of the Confederated Tribes of the Colville Reservation. Any part of such funds distributed per capita to the members of the tribes shall not be subject to Federal or State income tax.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 742), explaining the purposes of the bill.

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

PURPOSE

The purpose of S. 1169, introduced by Senators JACKSON and MAGNUSON at the request of the Colville Confederated Tribes, is to authorize and direct the Secretary of the Interior to make a $350 per capita payment to tribal members, from judgment funds, to the extent that such funds are available.

BACKGROUND

The act of April 24, 1961 (Public Law 87–24), provided for a division of funds between the Nez Perce Tribe of Idaho and the Colville Tribes from a judgment by the Indian Claims Commission in docket 175–A ($4,177,605.06). It further provided for the same division—86.6 percent to the Nez Perce and 13.4 percent to the Colvilles—in connection with judgments that might be awarded to either group in the future.

The act of September 26, 1961 (Public Law 87–298), provided for the use of the funds (approximately $1 million) from an award to the Colville Tribes in docket 181, and from judgments that might be made in other pending claims. It provided that the money could be advanced or expended for any purpose that is "authorized by the tribal governing body and approved by the Secretary of the Interior."

In connection with the possible distribution of the funds, this committee in Senate Report 1068, accompanying H.R. 8236, which became Public Law 87–298, made the following recommendation:

"On September 13, 1961, the Subcommittee on Indian Affairs held a hearing on H.R. 8236 and S. 2123, the companion bill introduced by Senator Jackson. Witnesses from the Colville Indian Association, representing approximately 400 Indians on and off the reservation, and representatives of the official tribal governing body, the tribal business council, testified on the proposed legislation. Spokesmen for the Colville Indian Association recommended amending the bill to require that the judgment fund be distributed on a per capita basis. While the proposed amendment was not adopted, the committee is of the opinion, based on testimony given, that a real need exists for a per capita payment to tribal members.

"The Colville Tribes are currently preparing a program for terminating Federal supervision and control over their affairs. Approximately 75 percent of the Indians reside off the reservation, and there appears to be no desire on the part of the tribe to invest the proceeds of their claim in a tribal development program. Moreover, it was the statement of the official tribal delegates that the Secretary of the Interior would be requested to approve a per capita distribution. Under the circumstances, it is the committee's recommendation that following passage of H.R. 8236, the Secretary of the Interior take steps to provide for a per capita payment to the Indians from the funds covered by the legislation."

To date, no per capita payments have been made to the Colville Indians from judgment funds.

NEED

On October 24, 25, and 26, 1963, the Subcommittee on Indian Affairs conducted field hearings on S. 1169 at Spokane, Nespelem, and Seattle, Wash. Several hundred members of the Colville Tribes attended the subcommittee sessions. Every witness, including official tribal spokesmen, requested early enactment of S. 1169.

This tribe has submitted legislation to Congress (S. 1442) that would, if passed, put into effect the first steps of a program leading toward termination of Federal supervision and control over the Colvilles. It is evident from the hearing record that a substantial percentage of these Indians wish to discontinue the existing relationship with the Government in the very near future. Many of the 4,700 Colvilles now live off the reservation. Therefore, it does not appear desirable or necessary to preserve the judgment funds for tribal development purposes.

Based on the lengthy hearing record and the strong urging of individual members and the tribal governing body, it is the committee's recommendation that S. 1169 be enacted, notwithstanding the adverse reports from the Department of the Interior and the Bureau of the Budget.

AMENDMENTS

The committee has struck from the bill certain language and docket numbers that may not have accurately reflected the claims still pending before the Indian Claims Commission.

Language has been inserted at the appropriate place to make clear that if there is an insufficient amount of judgment funds to make a payment of exactly $350 that a per capita as close to that figure as possible be made. It is believed that adequate funds are presently available.

COST

Enactment of this legislation will result in a saving to the Federal Government of approximately $60,000 a year, which is the amount of interest now being earned by the judgment funds on deposit in the Treasury.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of executive business.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations on the Executive Calendar be stated.

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

ATOMIC ENERGY COMMISSION

The legislative clerk read the nomination of William Jack Howard, of California, to be Chairman of the Military Liaison Committee to the Atomic Energy Commission.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

U.S. ARMY

The legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

U.S. AIR FORCE

The legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations in the Air Force be considered en bloc.

The PRESIDING OFFICER. 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 the nominations.

The PRESIDING OFFICER. 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.

U.S.S. "UTAH"

Mr. MOSS. Mr. President, tomorrow, December 7, will mark the 22d anniversary of the attack on Pearl Harbor. I cannot let this day go by without pausing for a moment to pay tribute to the heroic American fighting men who gave their lives there that freedom might live.

Particularly do I want to pay tribute to the 54 men who lie entombed in the U.S.S. *Utah,* but who seem to have been forgotten by the country they loved. We honor the men of the U.S.S. *Arizona* day in and day out by a magnificent memorial which was built over the hulk, and by raising the colors over her at dawn each morning and lowering them at sundown. The men of the U.S.S. *Utah,* who lie in silence less than a mile from the *Arizona's* fine memorial, are honored only by a small plate, which does not even list the names of the officers or the men who went down with her, and whose bodies have never been recovered. Thousands pass the *Utah* each day after having seen the *Arizona without even* knowing it is the tomb of equally brave men who died defending their country.

Earlier this session I introduced a bill to erect a simple flagpole over the *Utah* so that the colors may be flown over her as they are over the *Arizona.* I had hoped that by December 7 of this year Congress would have passed the bill and that the simple platform and flagpole for which it provides would have been built. I had anticipated a ceremony in which we could raise the flag for the first time over the U.S.S. *Utah* hulk, and assure that this simple tribute to American men fallen in battle would be perpetuated for all time to come.

I am deeply disappointed that this ceremony must be postponed for another year. I have asked the distinguished chairman of the Senate Armed Services Committee [Mr. RUSSELL] to schedule hearings on my U.S.S. *Utah* bill, but because of the press of important legislation before that committee this session, it has not been possible to consider the *Utah* bill. I am hopeful that hearings can be held early next session. I know that my 38 colleagues who joined in cosponsoring the resolution support me in this request.

Almost every State—and certainly every area of the country—has one or more of its boys listed among the *Utah* dead. Of the 54 men whose bodies were not found or identified, 13 gave California as their home State; 11 Texas; 3 each Illinois, Iowa, Washington State, and New York; 2 each Colorado, Missouri, Virginia, and Massachusettts; 1 each Kentucky, Arkansas, Minnesota, Louisiana, Michigan, Oregon, Ohio, Nebraska, and 1 who did not list his home. His record, however, showed he was born in Iowa. Another man was a native of the Philippine Islands. Many men showed next of kin in States other than their home at the time of enlistment, so there is hardly a State which is not touched in some way by the ghostly hands of those entombed in the U.S.S. *Utah.*

I salute these heroes of Pearl Harbor and express my fervent hope that our country will soon demonstrate its honor and gratitude by the simple act of flying Old Glory over their watery grave.

STATISTICAL MALPRACTICE

Mr. YOUNG of Ohio. Mr. President, the reactionary members of the House of Delegates of the American Medical Association have become expert practitioners of the art of propaganda. Like all paid professional would-be brainwashers of the public, they do not hesitate to resort to distortion and exaggeration to beef up their arguments. Of the 227-member house of delegates, fewer than 50 are family physicians. The remainder are political doctors.

Recently the U.S. Public Health Service caught them in the act of statistical malpractice. In expressing opposition to Federal aid in constructing and equipping medical schools, the AMA, through this leading group, announced that there is no shortage of doctors in the United States; that there had been an 8.9-percent increase in the ratio of physicians to the total U.S. population. Not so, says the Public Health Service, charging these political doctors with downright juggling of figures. The facts are: During the period of 1960 to 1963 only 1 more doctor has been added per 100,000 population. In many counties of the United States there is not even one physician. In an emergency requiring surgery, in some counties in many States, this situation is calamitous.

The AMA did some figure juggling as follows: They counted American physicians and surgeons all over the world who are serving with our Armed Forces, embassies, and governmental agencies. Then they excluded the population of Puerto Rico—a total of 4 million—even excluding servicemen and their families located there. Puerto Rico is, of course, a part of the United States. AMA officials then issued an inflated claim that 29,000 doctors had been added to the total number of physicians and surgeons in this country during this period. In attempting to fool the American public, they included medical students attending universities in the 50 States and in Puerto Rico in this total and then added 2,000 osteopaths. The legislature of California gives medical degrees to the osteopaths of that State. They are evidently recognized in California as physicians, but would not be in Ohio and in most other States.

It is bad enough that the AMA ruling clique is spending many thousands of dollars lobbying against hospital and nursing home insurance for the elderly under social security coverage, commonly termed "medicare." Now their leaders resort to quackery, deceit, and fraud in creating arguments and poohpoohing factually correct statements that there is a shortage of doctors in the United States. Do these political doctors fear to share their bounty—the highest professional income—with ambitious, intelligent young men and women who desire to embark on a medical career?

Mr. President, I am—or rather was—a lawyer. The need for tens of thousands of additional lawyers in our country could be debated. The need for tens of thousands of additional physicians and surgeons is very evident and urgent. I am delighted that a bill to provide Federal aid in the construction of medical schools became law this year, despite the expensive and unscrupulous efforts of the AMA, which maintains one of the most expensive and powerful lobbies in Washington.

Mr. President, I do pay tribute and manifest my admiration for all of the doctors in the Public Health Service of our country and to the many thousands of physicians and surgeons in the United States who feel that the AMA is misrepresenting them. Despite the unyielding opposition of AMA leaders to social security coverage for doctors, 68 percent of Ohio doctors responding to a referendum of the Ohio State Medical Association, a branch of the AMA, expressed their desire and hope for social security coverage. Doctors in other States have expressed the same wish, but to no avail.

PRESIDENTIAL INABILITY

Mr. KEATING. Mr. President, occasionally a terrible tragedy or crisis causes Congress to galvanize itself into action to meet a problem which has existed over the years, but about which nothing has been done. If as a result of the tragic assassination of our late President we can be driven to attack head on the complex problem of Presidential inability, there will have been at least one redeeming aspect to the horrible events in Dallas that are so fresh in our minds.

The late Senator Estes Kefauver and I were deeply interested in this problem and cosponsored a proposed constitutional amendment, which is now before the Committee on the Judiciary. Senator Kefauver often discussed this problem with me at great length. He had a unique understanding of the difficulties which could arise and an intense practical grasp of the many proposals for remedial action.

If the bullet that killed our President had, instead, inflicted brain damage or other serious injury resulting in his incapacity, or if former President Eisenhower, when he had his illness, had become worse instead of better and possibly lapsed into a coma for a time, there would not have been, as there is not now, any provision in the Constitution, our fundamental law, for the Vice President to succeed to the powers and duties of the office of President.

The Vice President in office at the time of President Wilson's serious illness and Vice Presidents in office when other Presidents have become incapacitated have been very reluctant to do so—for among other reasons, because it was uncertain whether the Vice President would then succeed to the office itself or instead only its powers and duties.

We must come to grips with this problem. At the last meeting of the Judiciary Committee, I brought up for discussion the Kefauver-Keating constitutional amendment, which had been approved by the Constitutional Amendments Subcommittee of that committee, and it was discussed at some length. I think it fair to say that in the committee there was unanimous recognition that some action along these lines should be taken. I believe it was generally felt, however, that the appropriate time to go forward will be in the early part of next year; and it is quite possible that President Johnson might refer to this or a similar proposal in his state of the Union message. Obviously, any suggestions he might make should have earnest and serious consideration.

Roscoe Drummond has written a penetrating analysis of the problem; his article, which was published today in the New York Herald Tribune, and other papers is entitled "Congress Must Face Up Now." I sincerely feel that that is true, and that really there is no time for us to dally further before dealing with this situation.

Many ideas for the best method of determining inability have been advanced, and sincere men and students of this question can reasonably differ. Senator Kefauver and I had our own differences on the precise mechanics of determining whether a President has become unable to fulfill the duties of office. Therefore, our proposed constitutional amendment merely provided that Congress should have power to legislate in this field. We believed that that proposal would be most likely to receive a two-thirds favorable vote in the Senate and to be ratified by the required number of State legislatures. The Attorney General had rendered an opinion approving that course of proceeding.

So the way has been paved; and it would be a tribute to the memory of Senator Kefauver, who labored so long in this area of constitutional law, if in the early part of the next session our committee reported the proposed constitutional amendment and if it were then passed by both the Senate and the House of Representatives. The time for taking such action is long overdue.

Mr. President, I ask unanimous consent that the article, "Congress Must Face Up Now," by Roscoe Drummond, be printed at this point in the RECORD.

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

CONGRESS MUST FACE UP NOW—A GAP AT TOP IF PRESIDENT SHOULD FALL SERIOUSLY ILL

(By Roscoe Drummond)

WASHINGTON.—It is immensely valuable that the President's bipartisan commission, headed by Chief Justice Earl Warren, is studying, appraising and preparing to report to the country all the evidence bearing on the assassination of John F. Kennedy.

This needs to be done. By virtue of the stature of the panel, it is going to be done well.

But there is something equally vital and urgent—in fact, because it concerns the present and the future, more vital and more urgent—than this useful inquiry into the past.

I refer to the imperative necessity of repairing at the earliest possible moment the gaping hole in the Constitution as to what happens when a President is temporarily unable to discharge his duties because of illness or any other emergency.

In the wake of President Eisenhower's heart attack and subsequent illnesses, Congress walked right up to this problem—and stopped. At this time only one voice is being raised in behalf of beginning now, without delay, the action needed to correct the constitutional defect, which can no longer be safely left as it is. This is the voice of Senator KENNETH KEATING, Republican, of New York.

Let me state the problem briefly. The Constitution provides in article II that in case of the inability of the President "to discharge the powers and duties of the said office, the same shall devolve on the Vice President."

This leaves unclear and unsettled so many matters that twice in our history, in the less exacting times of Presidents Garfield and Wilson, the Government was paralyzed for months. In today's world, the U.S. Government cannot afford to be paralyzed for minutes.

Here are the matters which the Constitution leaves unanswered:

Who shall decide when a President is for any reason unable to discharge his duties and how?

Who shall decide when a President is ready to assume his duties and how?

What is to be done if a disabled President seeks to assert his authority before he has recovered?

In case of the disability of the President, does the Vice President—or the man next in line—succeed to the office of President or only to the duties of the Presidency?

This latter question is exceedingly moot. Some distinguished constitutional scholars hold that the Vice President would merely act as President temporarily. Others hold that he would in fact become President for the remainder of the term.

This is not an academic question. Because of this uncertainty, two Vice Presidents refused to discharge the duties of President during long inability for fear that the President would think they were trying to seize the office from him. When Garfield was ill and when Wilson was paralyzed for months, the real difficulty was not to determine inability. In each case the Vice President either did not wish or did not dare to move because he was not sure that the President could then take back the office again.

Bear in mind that three out of the last four Presidents have been the targets of an assassin's bullets—Roosevelt, Truman, and Kennedy. Each could have suffered long disability.

Bear in mind that President Johnson as well as President Eisenhower have suffered serious heart attacks.

It is not ghoulish to face this problem openly and candidly. It is recklessly irresponsible not to do so.

Senator KEATING is making the right beginning by proposing a constitutional amendment authorizing Congress to enact that necessary clarifying legislation.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, what is the unfinished business?

The PRESIDING OFFICER. The pending question is on agreeing to the motion of the Senator from Montana that the Senate proceed to the consideration of Senate Concurrent Resolution 1, to create a joint committee to study the organization and operation of the Congress, and recommend improvements therein.

Mr. MANSFIELD. For the information of the Senators, let me state that it is anticipated that, in the immediate future, two speeches will be delivered by Senators—one, by the distinguished Senator from Wyoming [Mr. SIMPSON]; the other, by the distinguished Senator from Wisconsin [Mr. PROXMIRE].

It is hoped that, following those speeches, it may be possible, under a unanimous-consent agreement, to lay aside temporarily the pending question, and to have the Senate proceed to the consideration of Calendar No. 546, Senate bill 2100, to continue certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber; and then to return to the question which now is pending.

I have discussed this course with some of the interested Senators, and it meets with their approval, at least for the time being.

Mr. KEATING. Has the Senator from New Jersey [Mr. CASE] been consulted?

Mr. MANSFIELD. No, although I would have done so if he had been in the Chamber at that time. However, I consulted the Senator from Pennsylvania [Mr. CLARK], and this course is agreeable to him.

Mr. KEATING. I shall consult the Senator from New Jersey.

Mr. MANSFIELD. I thank the Senator from New York.

THE ASSASSINATION OF JOHN F. KENNEDY

Mr. SIMPSON. Mr. President, I ask unanimous consent that there may be printed in the RECORD at the conclusion of my remarks the various articles and editorials to which I shall refer in the course of my speech.

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

(See exhibit 1.)

Mr. SIMPSON. Mr. President, the assassination of President John F. Kennedy is a tragedy that has touched the heart and life of every American—a tragedy which crosses the lines of party and religion to make its imprint on the Nation. The President of all of us has been slain, and the entire Nation mourns.

But in the aftermath—in the frantic efforts to learn the "whys" of this heinous crime—there is the danger of yet another assassination: the assassination of the American character.

From all strata of American life—from pulpit, press, and the Nation's highest court—has come the enunciation that a great deficit in American morals is the

underlying cause of the Dallas tragedy. This, I vehemently resent.

This tortured introspection is alleged to reveal an obsession in America with hatred, lust, and violence—emotions which hardly seem to fit a nation that has expressed such genuinely spontaneous grief and shock at the death of its President. The very character of our Nation is being impugned by these intemperate attacks; and it is time they were studied, for never before has a vocal minority attempted to find so much hatred and viciousness permeating the American spirit.

Says the Wall Street Journal editorially:

> The prevalence of such views is somewhat puzzling and not a little disturbing. Frightful and frightening as the murder was, it is hard to see on what rational grounds it can be made into an assault on the whole character of contemporary America * * * in America the picture of a people possessed by hate does not fit the facts disclosed by simple observation.

After nearly 2 weeks of national remonstration, it seems quite clear why the assault is continuing: There are people who hope to gain political advantage from warping the uncontestable truth of the assassination to produce alleged facts which simply do not exist.

HATE AND RIGHT WING THEORY

One such bit of vicious fiction is the proposition that the so-called political right somehow had a finger on the trigger of Lee Oswald's rifle, along with the entire city of Dallas.

Mr. President, these attempts to misrepresent the plain, unvarnished facts of the Kennedy assassination do a grave disservice to the country and to the fallen Chief Executive.

Unless the protagonists of the hate and collective-guilt theories have a different set of facts than those which have been made available to me, it was not a rightwing fanatic who killed John F. Kennedy. It was a single, kill-crazy Communist who was acting to the dictates of his own unexplainable leftwing dementia. To insinuate that conservative elements in America are to blame for the killing makes about as much sense as to blame Billy Mitchell for the bombing of Pearl Harbor. Every fact brought to light since the firing of those fatal shots at Dallas further exonerates the right.

I am relieved to find that the press here and in my home State has started questioning the hate-the-right propaganda. Several writers have done so with great decisiveness in examining the belabored postulates of collective guilt, rightwing culpability, and national hatred.

As the Washington Star pointed out December 3:

> In the emotional aftermath of President Kennedy's murder, the Nation is being subjected to a seemingly endless series of sermons on the evils of hatred. The idea is always pretty much the same. The frame of mind which produced the assassination is equated, in resolute contradiction of any known facts, with the attitude of the radical right * * * the sermons are sincere * * * but they happen to be irrelevant to the death of Mr. Kennedy.

The Star continues by examining the absurdity of tacking blame for the killing on the political right and the equal absurdity of affixing this responsibility to some enveloping moral weakness in America as a whole.

> Until we know something different—

Continues the Star—

> the reasonable assumption must be that the assassination was the result of something dreadfully wrong in the mind of Lee Oswald.

Richard Wilson, writing in the November 27 Star, notes the odd views evoked by the killing, and observes:

> In spite of the simple facts of the assassination, there are many in the city who will not separate the President's tragic death from the segregation and far right issues. Their tortured reasoning is that the assassin came out of the same pot, that the city of Dallas in the reactionary Southwest had spawned them all and all were equally culpable. Even the Chief Justice of the United States allowed himself to stray from the path of sound reasoning.

The Wall Street Journal continues:

> To make the assassination of a President an occasion for character assassination does worse than confuse issues. The harping on hate is a disservice to the Nation, for it makes it more difficult for the nonviolent majority to get on with their and the Nation's business in a time of sorrow.

DALLAS

Mr. President, enough is known of the assassination that it can be definitely stated the American political right did not commit the savage act. Neither did some vague nationwide miasma of hatred. Neither the city of Dallas nor the State of Texas fired the fatal shots, although several columnists have enterprisingly blamed the whole affair on Dallas.

Those who blame the city—meaning apparently its population in toto—are forgetting that the President was receiving one of the warmest and most enthusiastic welcomes of his career there, even though Dallas does contain elements opposed to his political philosophy. The deepest schisms were within his own party.

The President knew of these people when he went to Dallas, and it is obvious that he did not fear them for no extraordinary safety precautions were taken. He rode in a convertible with its top down, in full view of thousands who lined his route, and his conduct was not that of a man whose perspicacity told him he would be shot dead by the city. As the press has reported, the Texas welcome was so enthusiastic, so spontaneous and genuine, that Governor Connally's wife had exclaimed to the President an instant before the fatal shots:

> You cannot say that Dallas isn't friendly to you today, Mr. President.

Those who excoriate Dallas forget the shock and disbelief that gripped that city November 22. They forget—with intent, perhaps—the line of mourners which still files past the spot of the killing. They disregard the genuine outpouring of sympathy and grief from millions within Dallas and within Texas—sentiments that came spontaneously and sincerely from persons of both parties, from left and from right.

There is cause for questioning the gross negligence of some Dallas policemen in allowing the assassin to himself be assassinated, but in the words of the Wall Street Journal:

> It is more than nonsense to say that the good people of Dallas, crowding the streets to honor a President, share the murderous guilt or that the tragic acts of madmen cast a shadow on the whole of America. Such an indictment is vicious. For our part we find past understanding the remarks of some otherwise thoughtful men who in their moment of shock would indict a whole Nation with a collective guilt. It seems to us that they themselves have yielded to the hysteria that they would charge to others and in so doing show that their own country is past their understanding.

Statements affixing a collective guilt, whether it be upon Dallas, the great State of Texas, or the Nation, can come only from men who have lost contact with the American spirit. They are ignoring both the facts of the assassination and the manner in which the American people responded to the tragedy.

Editor James Flinchum of the Wyoming State Tribune puts it this way:

> The city of Dallas and its people are no more guilty than those of any other city in the country, but there are those who would have you believe it, and interestingly enough, among them is the Soviet press which suddenly has recovered its voice and denounces the entire tragedy as the product of rightwing reactionaries and the Dallas police.

Dallas is not to blame because it had residing in its bosom for a few weeks the man whose tortured mind ended the life of our President. The city of Dallas has no reason to don a mantle of guilt because some groups which have alined themselves with extremist causes are found there. Such extremism did not take the life of the President.

POLITICAL RIGHT

Those who would accuse the political right of pulling the trigger overlook the plethora of facts which point the finger of guilt at Lee Oswald and his affinity to leftwing dogmas from Marx to Castro.

There may be in America a radical right movement—just as there is a radical left—but there is a clear distinction between the radical right and America's bona fide political conservatives.

Let me interject here that as extreme as its views may be, the radical right has not sold our nuclear secrets to Russia, has not allowed free China to be driven to Formosa, has not condoned the enslavement of the captive nations of Europe, and has not helped communism establish a beachhead in Cuba. The only genuine hatred they seem to be guilty of is a hatred of communism.

It remains, however, a favorite ploy of the hate-the-right movement to wrap up every nonliberal—conservatives and others alike—in one nice neat package under one extremist label. It seems to be the fashion nowadays, and this is what some are attempting to do in the hysterical aftermath of President Kennedy's assassination.

Those of us who watched the unfolding of the tragedy on television on that unforgettable black Friday were shocked

at the instantaneous prejudging of the assassin before his identity was known.

"A rightwinger killed the President," said some directly or by innuendo, and there was an unmistakable note of disappointment when they were forced to admit later that same day that the most probable suspect was in the fold of the left, not the right. Even now the fact of the matter is being obscured by the shakily constructed premise that an atmosphere of hate, created by the rightwing, inflamed the mind of Lee Oswald. "Maybe," some say, "the poor boy wouldn't have done the whole thing if he hadn't been tainted by the Dallas atmosphere."

But what of Oswald's own admission that he had been a Marxist since his midteens? In the ensuing years, during his tenure in the military, his infatuations with marxism and communism had been intensified to the point that hatred played a very great role in his mental chemistry.

HATRED

Oswald's hatred was directed at America in general, her institutions, her private enterprise system, all those things which differentiate the free world from the world of chains and darkness. If hatred was a factor in the killing of John F. Kennedy, and it probably was, that hatred was from the left—the hatred which would "bury" America.

Editor Flinchum continues:

> Not very surprisingly, there have been those who have sought to place blame on political groups in this country, especially on rightwingers, although the immediate patent evidence is that the slaying was done by a Marxist, a subscriber to communism and a member of a pro-Castro Cuban organization.

As I have said, Mr. President, it is unlikely that a conspiracy of Oswald's leftist compatriots exists in the assassination. It is my understanding that a soon to be released report by the FBI substantiates that Oswald acted as a "loner" in the killing. But why was not Oswald under the closest scrutiny during the President's visit in Texas?

Oswald was known by the State Department to have sworn to an affidavit affirming his allegiance to the Soviet Socialistic Republic. He had a psychopathic record as well. He had vented his hatred of the United States publicly through the far left Fair Play for Cuba Committee. He considered himself a protege of the bearded dictator who governs Cuba.

But Lee Oswald was not watched on that fateful Friday. The danger from a man who had renounced his allegiance to America was ignored. Oswald was able to perch calmly and confidently in a window, munching fried chicken and drinking a coke, while he waited to gun down our President. Why? Why?

Columnist Holmes Alexander who recently interviewed my friend and colleague from Texas [Mr. TOWER], asks:

> Was it because the Federal Government and to some extent the general public have really come to believe that foolish, ill-mannered hecklers who spat at Adlai Stevenson represent a graver danger than the Communist system whose members and fellow travelers are the terrorists of Venezuela, the guerrillas of Vietnam, and the conquerors of Cuba?

Mr. President, has our Government been galloping about like Don Quixote seeking rightwing windmills to tilt, while the proliferating dangers from the left fester unchecked? This is one of the most important questions that can be resolved by the Executive Fact Finding Committee.

THE PRESIDENT'S INTELLECT

Mr. President, critics and supporters alike agree that John F. Kennedy was possessed of a clear, rational mind. Whether one acquiesced in or opposed his political theories, there can be no denying that he had tremendous intellect, an almost instantaneous cognizance, and an extremely keen sense of propriety and reality. His disagreements with the political right notwithstanding, he would be appalled could he witness the perverse logic and irrational pronouncements evoked by his assassination.

The objurgation of conservatism is grossly unjustified when the facts of this killing indicate, as Columnist Wilson noted:

> The accused and likely murderer was a proudly professed Marxist. He never boasted of being a segregationist or a far-righter.

Wilson continued in an admonition that should be heeded by the entire Congress and all Americans:

> Nothing could be more repugnant to the vibrant spirit and rational mind of John F. Kennedy than the notion that the attack on the President can be traced to the segregation or the far right issues.

I suggest that we resolve here today, each in his own mind, to cease feeding the fires of fanaticism kindled by the assassination. I suggest that we cease attempting to "nail" one political faction in America by exploiting the grief of the President's fine family.

The President was killed by a tortured man with a long record of erratic behavior and Communist inclinations.

There is no evidence to the contrary.

We have continuity of government under the Constitution. The Republc has weathered the storm, as have her institutions and her cherished political system. And so must survive the right to offer dissenting opinions without being labeled an extremist.

The assassination will not end political debate in this country. It will not, and it should not, cause all Americans to support controversial programs that met opposition before the murder.

There is no reason for the give and take of debate to be stilled now, for the issues remain to be evaluated on their merits, on reason, and on philosophy. The late President was one of the most vocal champions of the full give and take of debate. We have all seen him in action.

Let us then turn to the task to which we have been elected and truncate the activity of those who would manipulate the facts of the tragedy. The enemy continues to be the international conspiracy to destroy all free men. To assert otherwise is the grossest travesty on the truth.

It is fitting that the Nation honor and perpetuate the memory of the 35th President. Numerous bills and proposals to that effect have been propounded, and many will become law. But let us not make a mockery of such memorializing by interring with our fallen President the corpse of our assassinated American character.

Above all, let us as a people truly memorialize President Kennedy by uniting in devotion to our God and our country, and save our righteous indignation for those who defy both.

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

Mr. SIMPSON. I yield to the Senator from South Carolina.

Mr. THURMOND. I take this opportunity to extend my congratulations to the able Senator from Wyoming for the magnificent address he has just delivered. The Senator from Wyoming has said some things which needed to be said. I commend his vision and his courage in making these remarks. I feel that it is important for the RECORD to show the remarks of the distinguished Senator from Wyoming and for them to be recorded for history. Future generations should know the aftermath of what occurred in Dallas. What has been recorded here today by the able Senator from Wyoming as to what occurred there will be very helpful to historians in future generations.

Again I commend the fine Senator from Wyoming for the important contribution he has made on this occasion.

Mr. SIMPSON. Mr. President, I thank the distinguished Senator from South Carolina. I am flattered by the accolade paid me on the floor of the Senate by that distinguished gentleman. It comes from one whose patriotism is unalloyed. He is one of the great patriots of America. Certainly it does service to the speech I have delivered.

EXHIBIT 1

[From the Wall Street Journal, Dec. 3, 1963]

THE ASSAULT ON THE AMERICAN CHARACTER

From pulpits and the pens of commentators, from Government officials and assorted other citizens is issuing a torrent of talk to the effect that the American people are consumed with rancor and hatred. In the words of the outgoing head of the National Council of Churches, President Kennedy's assassination forces us to our knees in shame for all "our unharnessed hates."

The prevalence of such views is somewhat puzzling and not a little disturbing. Frightful and frightening as the murder was, it is hard to see on what rational grounds it can be made into an assault on the whole character of contemporary America.

The attack, to begin with, distorts all historical perspective. If this assassination is read as the result of an outpouring of hate peculiar to our time and place, how are the assassinations of the past to be accounted for? In the case of Lincoln, at the end of a great civil war, it would seem more appropriate to speak of forces of hatred and violence.

Nor do the histories of other peoples support the idea that there is something especially wrong with our society. A capacity for violence is obviously embedded in all men, and has shown hideous faces in man's long past; how well or ill it is controlled depends on a variety of civilizing influences. Yet in many more or less civilized places today, not even an election can occur unaccompanied by violent death.

In America, the picture of a people possessed by hate does not fit the facts disclosed by simple observation. An assassin who even as a boy was considered by a psychiatrist to be a potentially dangerous psychopath—is it honestly believed that this particular individual sums up the American character? Or sensible to say that he and his rifle could only have emerged out of the forces of hate abroad in the land?

No one could deny that there are individuals and small groups peddling hate. There have always been and probably always will be, but if anything they are today less important in national life and less indicative of national character than at some other periods.

It is fashionable nowadays to lump the haters with the extremists of the far right. In some individual instances there may be an identity, but individual hatreds also exist at the other extreme, in those who hate so much they would destroy America's institutions. In their obsession with the far right, some people seemingly refuse to believe that the deranged killer was a man of the far left.

In any event, all this is outside the mainstream of American life. Not hatred but growing understanding and even compassion typify the general temper of this society at this time.

Such qualities are evident all around us—in the normal home, in the comfortable working conditions of the normal company, in the increasing acceptance of once-despised minorities. It is hard to think of a time of so much concern by so many for the dignity of all men.

And it was such qualities that marked the reaction of the overwhelming majority of Americans to the President's death. It was not violence and hate but an outpouring of deep and personal grief, and that does reflect the American people.

To make the assassination of a President an occasion for character assassination does worse than confuse issues. The harping on hate is a disservice to the Nation, for it makes it more difficult for the nonviolent majority to get on with their and the Nation's business in a time of sorrow.

[From the Washington (D.C.) Evening Star, Nov. 27, 1963]

ASSASSINATION EVOKES ODD VIEWS—MANY SEEN LINKING KENNEDY KILLING TO RACISTS, RIGHTISTS, DESPITE FACTS

(By Richard Wilson)

The mood of self-examination which has overtaken the country following the assassination of President Kennedy has produced both ludicrous speculation and tortured reasoning.

We can see coming now the tracts entitled "The Conspiracy to Murder John F. Kennedy." In one version it will be an inverse antidesegregation conspiracy using a double-agent Communist to carry out the deed. In another version it will be just a plain Communist conspiracy. Additional versions will prove the ingenuity of the human mind when stimulated by 4 days of unremitting TV-radio programing.

These fantasies are not confined to the lunatic fringe. Here in Washington simple but seriously intentioned people arrived at the strange conclusion that the murder of the President is related in some amorphous way to the slaying of a desegregation leader in Mississippi.

In spite of the simple facts of the assassination, there are many in this city who will not separate the President's tragic death from the segregation and far right issues. Their tortured reasoning is that the assassin came out of the same pot, that the city of Dallas in the reactionary Southwest had spawned them all and all were equally culpable.

Even the Chief Justice of the United States allowed himself to stray from the path of sound reasoning. The misguided could deduce from his remarks that the extremities of the right in this particular case carried a responsibility for inspiring the extremities of the far left.

It is understandable that reasonable men, shocked and perplexed, should grope for the causes of the savagely incongruous event. But why there should be supposed to be any vague relationship between the assassination of President Kennedy and the assassination of President Lincoln escapes rationality. Lincoln's assassination was indeed the act of a crazed and pitifully inadequate conspiracy that aspired to control of the Nation. That assassination was part of the great Civil War over the issue of slavery and the rights of the States.

All too often, and without sound cause, the events of today are cast in the mold of a century ago, as if the relatively peaceful demonstrations for Negro equality were revolutionary acts. All too often the reaction of the white community of the Nation is related to the cause for which millions of men sprang to arms a century ago.

These exaggerations seem to be part of the uncertain national mood. It could be expected, therefore, that the man-in-the-street last Friday, before the circumstances became known, should conclude that the attack on the President could be traced either to the segregation or the far right issues.

This notion is given up by some only reluctantly and if any twisted version can be made to fit their preconceptions they readily turn to it.

Nothing could have been more repugnant to the vibrant spirit and rational mind of John F. Kennedy.

Now a series of inquiries is beginning. One is by the FBI and the Justice Department into both the assassination and the murder of the accused assassin. Another study will be conducted in Congress in connection with legislation to make a murderous attack on the President and Vice President a Federal crime wherever committed. The State of Texas will conduct a special ex post facto inquiry.

If these inquiries are well conducted they can help to clarify whether or not Oswald, in fact, murdered the President and his probable motives; they can never prove in the legal sense, however, that Oswald was the assassin, and he will remain for all time the accused assassin.

Only a continuing self-examination by those who influenced public thinking will find the root causes for the act. It may simply be that the cause lies more in the disorderly, undisciplined and callous phases of American life than in the ideological concepts that divide the country.

But one simple fact should not be ignored. The accused, and likely, murdered was a proudly professed Marxist; he never boasted of being a segregationist or a far righter.

[From U.S. News & World Report, Dec. 9, 1963]

NO TIME FOR COLLECTIVE GUILT

(NOTE.—Are the American people to blame for the assassination of President Kennedy? Men high in public life implied that in statements about the tragedy. They seemed to detect a national sickness that led to the assassin's bullet. This attitude prompted Vermont Royster, editor of the Wall Street Journal, to write the following for his newspaper.)

In the shock of these past few days it is understandable that Americans should find their grief mingled with some shame that these events should happen in their country. We all stand a little less tall than we did last Friday morning.

Yet, for our own part, we find past understanding the remarks of some otherwise thoughtful men who, in their moment of shock, would indict a whole nation with a collective guilt. It seems to us that they themselves have yielded to the hysteria they would charge to others, and, in so doing, show that their own country is past their understanding.

Anyone who has been reading the newspapers, listening to the radio or watching television has heard these men—they include public commentators, members of our Congress and men of God. And the substance of what they charge is that the whole of the American people—and, by inclusion, the ways of the American society—are wrapped in a collective guilt for the murder of a President and the murder of a murderer.

A Senator said that the responsibility lay on "the people of Dallas" because this is where the events took place. A spokesman for one group of our people said the Nation was "reaping the whirlwind of hatred." One of our highest judges said the President's murder was stimulated by the "hatred and malevolence" that are "eating their way into the bloodstream of American life." A newspaper of great renown passed judgment that "none of us can escape a share of the fault for the spiral of violence." And these were but a few among many.

Such statements can only come from men who have not been abroad in the land, neither paused to reflect how the events came about nor observed in what manner the whole American people have responded to tragedy.

A President lies dead because he moved freely among the people. He did so because he was beloved by many people, respected by all, and because everywhere people turned out in great numbers to pay him honor. In a society of tyranny the heads of State move in constant fear of murder, cordoned behind an army of policemen. It is the fundamental orderliness of the American society that leads Presidents to move exposed to all the people, making possible the act of a madman.

In the tragedy there is blame, surely, for negligence. In retrospect, perhaps, it was negligent of a President himself not to be aware that there are ever madmen in the world; yet it is a negligence born of courage and confidence. It was negligent of the police authorities, perhaps, not to search and cover every corner, every window, which might shield a madman; yet it was a negligence born of years of proven trust in the crowds of Americans through which Presidents have safely moved.

It was most certainly a terrible negligence on the part of the local police authorities which permitted one man to take vengeance into his own hands. It was an outrageous breach of responsibility for them to have moved a man accused of so heinous a crime in so careless a fashion. It was outrageous precisely because all the American people were themselves so outraged by the crime of assassination that anyone who knew these people ought to have known that one among them might be deranged enough to do exactly what was done.

Yet the opportunity for negligence came because here the accused was being treated as any other accused, his detention in the hands of local police, the procedures those followed for the ordinary of murders. In another land he would have been efficiently buried by a secret police in a Lubyanka Prison, never again to be seen or heard of until his execution.

One might say, we suppose, that some of this negligence could be laid to all of us. It is, after all, the eager interest of the people in the persons of their leaders that brings them into open caravans, and it is the desire of the people to follow the normal

ways even in murders of state that left the accused to bungling local police.

In sum, there is in all of this—let there be no mistake—much to grieve, to regret, to blame. We can't escape remorse that there are madmen in our midst, that a President is dead, that we have been denied the right to show in open court the virtue of a free society. Now we pay the price of all sorts of negligence.

But this is something different from the charge in the indictment. It is more than nonsense to say that the good people of Dallas, crowding the streets to honor a President, share a murderous guilt; or that the tragic acts of madmen cast a shadow on the whole of America. Such an indictment is vicious.

Of reasons for shame we have enough this day without adding to them a shameful injustice to a mourning people.

[From the Washington (D.C.) Star, Dec. 1, 1963]

HATRED AND HYSTERIA

In the emotional aftermath of President Kennedy's murder, the Nation is being subjected to a seemingly endless series of sermons, both in pulpits and in the public prints, on the evils of hatred. The idea is always pretty much the same. The frame of mind which produced the assassination is equated, in resolute contradiction of any known facts, with the attitude of the radical right—specifically the attitude of those who favor racial segregation. We are urged to purge ourselves of a poison which the dreadful act in Dallas supposedly has revealed in our blood stream.

The sermons are sincere and, hopefully, edifying as well. But they happen to be irrelevant to the death of Mr. Kennedy.

Segregation is morally wrong. A political program based on the repeal of the income tax is fiscally simple-minded. But neither one had anything to do with the murder.

If it is absurd to try to blame the assassination on the political right, it is yet more absurd to insinuate that it was the result of something dreadfully wrong with American political life as a whole. Until we know something different, the reasonable assumption must be that the assassination was the result of something dreadfully wrong in the mind of Lee Oswald.

It would be good and desirable if the world could now abjure all hatred. But since hatred still exists 1900 years after the Crucifixion, it is unhappily unlikely that it will vanish now.

Meanwhile, the continuing hysteria about national hatred as the central feature of this national tragedy does us a national injustice. It ignores, too, the most obvious expression of national feeling.

The line of mourners formed at the Capitol a week ago is still moving.

It may be seen in Dallas, where citizens bring flowers to the place in the road where the President was shot.

It may be seen across the Potomac, where Americans are coming in thousands to visit his grave.

It may be seen in the spontaneous and universal actions taken to reverence the memory of the martyred leader by giving his name to places and institutions that will endure.

Surely it is this outpouring of love and grief which speaks truly of the state of the Nation.

[From the Cheyenne (Wyo.) State Tribune, Nov. 29, 1963]

THE 7 LONG DAYS

It now is 1 week since the awful assassination of President Kennedy in Dallas, 7 of the longest days in the history of this country.

As Dwight Eisenhower said an hour or so after the fatal events of that frightful afternoon, the American people will be admirable in their steadiness, courage, and—as the former President put it—"their good commonsense."

And so they have, to the amazement not necessarily of themselves, but of the rest of the world.

It is a tribute not only to their levelness and their ability to cope with moments of great crisis such as we have had in the past and must face again in the future, but also to the sound foundations on which our society and our governmental processes are constructed.

In the wake of this terrible event the people can, must, and will remain calm while the duly constituted authorities proceed with their investigation of the murder of the President of the United States.

In the mourning that is taking place there must be no succumbing to a hysteria which would injure the fundamental bases of the democratic processes and of the Republic.

It is well enough to abjure evil, hate, and violence; that is to set one against sin, and if a vote were to be taken, the "ayes" would have it unanimously.

But in doing so let us take care that the sacred right of free speech, and the right to disagree in politics or otherwise, are not tampered with, for to do so would be to weaken the stanchions of our existence as a nation.

In the mass welling up of emotions as a consequence of Mr. Kennedy's death, there has been much self-flagellation en masse both by the people of the city where the slaying took place and by the Nation at large, as if the whole country had assumed the guilt for this horrible deed.

"God forgive us all," said the words on a wreath placed in the little park beneath the Texas Book Depository building from where the fatal shots were fired.

"I was born and raised here," said a Dallas ambulance driver who helped place the slain President's body in its casket, "but now I am ashamed."

Not very surprisingly there have been those who have sought to place blame on political groups in this country, too, especially on rightwingers, although the immediate, patent evidence is that slaying was done by a Marxist, a subscriber to communism, and a member of a pro-Castro Cuban organization.

In advance of the FBI's expected exhaustive report on the circumstances surrounding the killing, it might be well to point out that all previous assassins of Presidents of the United States have been out-and-out psychopaths with only superficial political motivation: John Wilkes Booth, a Confederate sympathizer but also an alcoholic nut; Charles Griteau, a screwball subject to delusions and an obvious psychotic; and Leon Czolgosz, an anarchist who nevertheless was so obviously deranged that the real practicing anarchists wouldn't have anything to do with him.

This kind of person, in minute numbers, has been with us always and will continue to be with us long into the future. To cry out against extremism, however one might assess that, still does not protect the President of the United States against the dangers posed by the type of individual who has reached that degree of lunacy, who is so dangerously disturbed mentally that he would commit such an act.

We must reexamine, then, our physical protective measures for safeguarding the person of the President against those who conceivably could do him harm in the future. That the Government seems to be doing at this time.

For that reason the cries about guilt and shame, the accusations against the city of Dallas, and other such denunciations serve no very good purpose.

The city of Dallas and its people are no more guilty than those of any other city in this country, but there are those who would have you believe it and interestingly enough, among them is the Soviet press which suddenly has recovered its voice and denounces the entire tragedy as the product of right-wing reactionaries and the Dallas police.

The proper authorities may be expected to adequately determine just who is guilty of the President's death, however, as indeed they already have done to a degree.

In the meantime let us reflect on the safety of Presidents for now and for the future.

While a President cannot be a prisoner of those who would protect him against danger, it is apparent that he must be shielded more closely in the light of what happened 7 long days ago.

This thing has happened before, it has happened now, and it is demonstrably clear that it can happen again unless all possible physical precautions are taken.

AN ELECTION ISSUE TAKING SHAPE

(By Holmes Alexander)

WASHINGTON.—Was John F. Kennedy assassinated because the Secret Service and FBI were watching every radical rightist in Dallas and letting lunatic leftists like Lee Harvey Oswald run wild?

Senator JOHN TOWER, Republican, of Texas, has raised this question in an interview with me. The Senator waited for a decent interval after Mr. Kennedy's stately, heart-touching funeral, but now he says:

"We have reports from Texas that the rightist figures were closely watched during the President's visit to Dallas on November 22d. It appears that the leftist figures were not watched."

TOWER, a conservative but no radical by any definition, is an anti-Birchite. The CONGRESSIONAL RECORD of February 6, 1962, will prove it. On that date, TOWER caused the reprinting of a famous article in the right-wing magazine, National Review, in which the John Birch Society leader, Robert Welch, was drummed out of the conservative movement.

Nevertheless, TOWER has been the target of leftist crackpots who blame the Kennedy assassination on rightist extremists. Undaunted, the Senator will demand investigation of his Dallas reports. He sticks by his conviction that America's worst enemies have been misidentified:

"The radical right," he says, "is the symptom of the disease we call extremism. The radical left is the disease itself."

Was there a failure in high places to take the Marxist menace as seriously as the Birchite menace? Did that failure contribute to the President's coming within gunfire of a Leftist crackpot? It is a hideous thought to contemplate, but it cannot be discarded for that reason. Even if Oswald turns out not to have been the killer (and we may never know), TOWER has much documentary evidence to show that the man was one who bore watching.

In January 1962 Oswald wrote from Minsk, in Russia, complaining to his Senator that the Soviets were holding him and his Russian-born wife in the U.S.S.R. against their will. Upon inquiry at the State Department, TOWER was told that Oswald was a man who had "requested that his American citizenship be revoked," and also a man who had previously, on November 2, 1959, sworn to this affidavit:

"I affirm that my allegiance is to the Soviet Socialist Republic."

Yet the Federal Government, having helped Oswald to return, apparently did not mark him as a dangerous citizen. Oswald was able to buy a murder weapon, hide himself with the weapon in a warehouse along the route of Mr. Kennedy's fatal journey in

Dallas. Why wasn't Oswald under surveillance? Was it because the Federal Government, and to some extent the general public, have really come to believe that foolish, ill-mannered hecklers who spat at Adlai Stevenson represent a graver danger than the Communist system whose members and fellow travelers are the terrorists in Venezuela, the guerrillas in Vietnam, and the conquerors of Cuba?

These queries at the heart of TOWER'S main question are going to uncork the vials of political passion which abated, very briefly, during the tragic interval of Mr. Kennedy's death and burial. Three investigations—Federal, congressional, and Texas—are now haltingly in motion to search out the causes of J.F.K.'s foul murder. One or more of these probes had better come up with plausible reports.

Otherwise, the sensational and unprecedented issue of a Presidential slaying will be at the center of next year's election.

THE NEGRO BUSINESSMAN IN AMERICA

Mr. SCOTT. Mr. President, recently a series of articles appeared in the Harrisburg Patriot. I believe they make a significant contribution to a much needed understanding of the problems and challenges faced by Negro Americans in the business world.

I ask unanimous consent that the articles, written by Morton A. Reichek for Advance News Service, be printed in the CONGRESSIONAL RECORD.

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

THE NEGRO BUSINESSMAN IN AMERICA

(By Morton A. Reichek, Advance News Service)

(EDITOR'S NOTE.—Against the backdrop of recent civil rights advances, the Negro business community—a small but bustling world of commerce and industry little known to the non-Negro—is in a ferment.

(Lured by increasing Negro purchasing power, white companies are invading markets which have been the traditional preserve of Negro businessmen. Then, as racial b s go down, Negro proprietors of restaurants, hotels, and places of entertainment are losing trade to white-owned establishments.

(In short, Negroes in business are faced with a moral quandary. As Negroes, they want desegregation on principle. But as businessmen who have lived under the protection of segregation, many of them face the threat of being integrated out of business.

(But there is a countertrend. Fortified by new managerial skills, easier access to capital, and a more congenial public climate, many Negro businessman are trying to move out of the segregated marketplace into the American economic mainstream. They are now competing against white firms in their own industries and are investing in businesses where Negroes were virtually unknown before.

(In a nine-part series of articles by Morton A. Reichek, Advance News Service, presents a profile of the Negro businessman, examines the social and economic changes which beset him, and assesses their impact on American life.)

BALTIMORE, MD.—"I am not a Negro businessman. I am a Negro in business."

So speaks Henry G. Parks, Jr., a tall, athletic-looking man in his late forties who heads a company which produces breakfast sausages and scrapple. He sits in a richly paneled office. Plaques on the wall show his membership in Baltimore's city council and awards from leading business groups. A colorful Utrillo print overlooks his desk, and golf trophies are stacked up behind him. He is the prototype of the successful American businessman.

Parks is not hypersensitive about his race. Nor is he engaging in semantics when he talks this way. This is simply his way of saying he does not want to be typed. He wants to sell his product competitively to all consumers regardless of race. He wants no advantage in the Negro market, and he wants an equal crack at the white consumer.

Parks represents a new breed of Negro in business—the entrepreneur who has advanced out of the traditionally restricted Negro market to compete in what Negro intellectuals like to call the American mainstream.

Married and the father of two children, Parks personifies the American business dream come true. Twelve years ago he started from scratch in the sausage business, using rented secondhand production equipment and trucks.

He has since built up a firm which will rack up more than $4 million in sales this year, and is growing so fast that he soon plans to spend almost $1 million to build a new plant.

The Parks Sausage Co., Inc., services 7,000 stores and central warehouses in a market ranging from Massachusetts to Virginia. It has branch sales offices in New York City, Philadelphia, Washington, and New Haven, Conn., employs 140 persons, and competes against the giants of the meatpacking industry.

Close to 80 percent of Parks' consumers are probably white. Few if any of them know he is a Negro.

At the start, Parks concedes he went after what he defines as a "specialized market"—the Negro. "It was untapped in this region," he says, "and a market I knew best. My idea was to use it as a springboard to emerge into the bigger general market."

Parks now advertises heavily to the general public, and successfully avoids the image of a Negro product. His TV commercials in this area—featuring a small boy who shouts, "more Parks sausages, mom"—have made a considerable impact.

A remarkably self-assured and articulate man, Parks says that as a Negro, "I have to be better than my competition. I would love to have the right to mediocrity."

Born in Georgia, raised in Dayton, Ohio, he is a graduate of Ohio State University. He majored in marketing—an unusual academic field for Negroes in his day—and ranked high in his class. With some bitterness, he recalls that the large corporations snatched up many of his white classmates who had inferior academic records. Upon graduation, Parks went to work in a grocery store for $18 a week.

But he doesn't like to dwell on racial discrimination in his business career. "I have been insulted to the point of desperation, and I have swallowed gall," he says. "I have been able to divert my reaction, however, to positive purposes. I don't like to spend too much time contemplating on the past. I have gone into business, civic affairs, and politics without being resentful and negative."

Parks has a widely varied business background. From the grocery store, he went into administrative work for the National Youth Administration, a depression-era Government agency, then to work as a salesman in Chicago and New York City for a nationally known beer company.

"I didn't think the big companies were ready to allow a Negro to advance," he says. "So I resigned and went into business myself." His ventures included a New York partnership in public relations, advertising, theatrical bookings, and promotions (one was the ill-fated effort to push a soft drink known as Joe Louis Punch); drugstores, cement block manufacturing, and a real estate brokerage in Baltimore; a sausage company in Cleveland; then back to Baltimore where he set up his present company.

Parks has a silent partner, a local Negro financier, with whom he shares ownership of the sausage firm. They are also in the truck leasing business.

The company has a few white salesmen and production workers. He says he has tried unsuccessfully to hire more, and blames labor unions for failing to cooperate with him in his efforts.

Though active in the civil rights movement, he carefully separates this activity from his business life. Says Parks: "This is a business I'm in, not a social battle."

He claims there are other Negroes who own major businesses catering to the general public who "live in fear and hide their identity." He cites the case of a large floor-covering contractor with an all-white work force and a Negro handyman, who, unknown to all but a handful of select employees, is the firm's owner.

"The Negro businessman," says Parks, "needs the satisfaction of real accomplishment, the solace of a significant job well done, the thrill of being measured by his fellow man and not found wanting. If Americans cannot accept the Negro's privilege to get out and compete and to seek normal rewards, there is no hope left for any of us."

PART 2: THE NEGRO BUSINESSMAN IN AMERICA

(By Morton A. Reichek, Advance News Service)

WASHINGTON.—In this city, where well over half the population is Negro, you can't buy a man's shirt or suit from a Negro merchant. With very few exceptions, the same can be said for most any other American city.

This fact rankles many Negro community leaders. Not that they see anything sacred about the privilege of selling clothing. But this symbolizes to them the backwardness and ingrained limitations of Negro-owned business enterprise.

No one knows for sure how many Negro businesses there are. About 20 years ago, the Census Bureau dropped racial designations from its business surveys. Now, ironically, some Negro business experts want the Bureau to resume counting by race. They need some authoritative facts and figures on which to base their plans for revitalizing Negro-owned enterprise, nowadays, however, Government officials are squeamish about racial censuses.

Educated guesses on the number of Negro-owned businesses range from 45,000 to 60,000. Manufacturing of any consequence is rare. About 12 companies make hair straighteners, skin lighteners, and other cosmetics and toiletries for Negro use. A handful of others produce such items as caskets, chemical disinfectants, embalming fluids, food products, and sanitary supplies—also mainly for Negro consumption.

Equally rare is retail merchandising on a large scale. In Washington, for example, of 388 retail liquor stores, only 4 are owned by Negroes. Complains a Negro civic leader: "We know very little about how to buy something for a nickel and sell it for a dime. Yet this is where the real money is in business. We are mired down in personal service trades where normally you can only make enough to feed yourself."

The traditional pattern of Negro business consists of funeral parlors, grocery stores, shoe repair shops, lunch counters, barbershops, beauty parlors, and the like, in run-down neighborhoods—tiny ventures, and marginal at best, serving other Negroes.

Captive, low-income markets have held back the competitive pressures to improve.

Says one businessman: "Negro business has been forced off the main highway of commerce on to a detour. And no one can go as fast on a detour as on the main road."

There are lots of exceptions, of course, to this unalluring picture. Prosperous insurance and real estate firms, banks, truckers, restaurants and nightclubs, publishers, and taxi operators enhance the image of Negro business.

Banking and insurance are the major Negro-owned enterprises. At the end of last year, there were 12 Negro commercial and savings banks with total assets of $71.3 million. All but two are in the South. At least three others—in Houston, Tex., New York City, and Los Angeles—are opening up this year.

The latest count shows close to 50 Negro-controlled savings and loan associations (3 years ago there were only 28), 20 Negro-operated life insurance companies, and 2 multiple-line casualty insurance firms.

Compared to large non-Negro institutions, however, these are small potatoes. With a couple of exceptions, the banks are primarily small loan companies which generate few big commercial loans. The three largest ones have total assets of $35 million; New York's Chase Manhattan alone, by comparison, has some $10 billion. North Carolina Mutual Life Insurance Co., the largest Negro-owned business, has about $67 million in assets and less than $300 million worth of insurance in force—which rates it among smaller white companies.

There has been little traditional interest in business and Negroes. No doubt this reflects the Negro cultural heritage. In a slavery economy, Negroes were never even exposed to the rudiments of trade and commerce. In contrast, the European ethnic minorities who migrated here during the past century were steeped in cultures where business was an important ingredient.

To some extent, this background speeded the cultural assimilation of many of the immigrants. A foothold in business made it easier for some of them to force their way into the general society.

Barred from certain labor unions, for example, they went to work for employers of their own minority group. They were paid lower wages than native-born union members in the same industry. The immigrant employer was thus able to underbid his competition. Ultimately, the unions were forced to admit the foreign worker just to maintain higher wage levels.

For the most part, Negroes have been unable to use this tactic to get into unions. Not enough of them have been entrepreneurs. Now the situation is changing—particularly in the construction business where Negro contractors employing nonunion, lower-wage Negro workers have a competitive advantage. In effect, business enterprise is facilitating integration.

Young Negroes have not been normally attracted to business enterprise. Historically, the prestige or status roles in Negro communities have been held by doctors, lawyers, teachers, and preachers. Just recently, Ebony magazine published its ranking of the Nation's 100 "most influential Negroes." Only eight were primarily business entrepreneurs.

In many Negro communities, academic people have been the prime movers in business. For instance, in Atlanta, Ga., the citadel of Negro business life, most of the top executives of the major Negro insurance companies and banks have been or still are on the faculties of the city's six Negro colleges.

In Houston, Tex., the president of the new Negro-operated Riverside National Bank is Dr. Edward D. Irons, chairman of Texas Southern University's commerce department. In Baltimore, Md., Dr. Wilfred D. Bryson, chairman of Morgan State College's economics department, founded a Federal savings and loan association which now has assets of over $3 million. In Durham, N.C., there are close working connections between North Carolina Mutual and the local North Carolina College.

Negro doctors have also been important wheelers and dealers in business. Dr. J. E. Walker, a Memphis, Tenn. physician, founded the city's leading Negro bank and insurance company. In Atlanta, a surgeon was a founder and still is a major stockholder in Southeastern Fidelity Insurance Co., the first Negro multiline casualty company.

Dr. James E. Roberts of Washington is a fairly typical example of a Negro medical entrepreneur. A practicing obstetrician and a professor of medicine at Howard University, Dr. Roberts also owns a thriving laundry.

Aside from the basic cultural lag in business affairs, Negro business growth has been consistently hampered by lack of adequate capital resources and managerial know-how and by restrictions in business mobility.

Now advances in civil rights are helping reshape the Negro business world. The forces are working in two directions. On the one hand, the protective cloak of segregation, which has given many Negro entrepreneurs a monopoly on certain kinds of Negro business, is falling apart.

Lured by increasing Negro purchasing power, white companies are invading markets which have been the traditional preserve of Negro businessmen. Then, as racial barriers go down, particularly in northern and western cities, Negro proprietors of public facilities such as hotels, restaurants, and places of entertainment are losing trade to white-owned establishments.

But there is also a positive side. Fortified by new managerial skills, easier access to capital, and a more congenial public climate, many Negro businessmen are moving out of the segregated market place into the economic mainstream. They are competing against white firms in their own industries and are investing in areas where Negroes were unknown before.

PART 3: THE NEGRO BUSINESSMAN IN AMERICA

(By Morton A. Reichek, Advance News Service)

WASHINGTON.—When Berkeley G. Burrell, a young Negro master sergeant in the Quartermaster Corps, got out of the Army after World War II, he had an ambition common to many ex-GI's. He was—as he now puts it—"Determined to call myself my own boss."

In the service, Burrell had helped run the post drycleaning plant at Fort Leonard Wood, Mo. He decided to parlay his military experience into a civilian business. He invested $1,500, some of it from Army savings and some borrowed, in a drycleaning store.

Over the years, Burrell, now 44, has developed a thriving Washington enterprise, Superb Cleaners. He has 2 retail outlets and a wholesale drycleaning plant which serves some 30 other retail stores and the Statler-Hilton Hotel. He has 15 employees and cleaning equipment valued at $50,000. His annual sales, now amounting to over $100,000, have been rising steadily.

Burrell who studied political science during 3 years at Howard University here, is active in civic affairs (Boy Scouts and community projects to combat juvenile delinquency), lectures to the local police department on race relations problems, and has become a national leader in Negro business affairs.

Recently elected president of the 10,000-member National Business League, a sort of nationwide chamber of commerce for Negro businessmen, Burrell is a man with a self-imposed mission: to increase the numbers of Negroes in business and to promote modern management techniques among Negro entrepreneurs.

"Only through the emergence of Negro business on a significant scale can this country hope to eradicate the economic and social gap between Negroes and whites," he says. "We can only integrate from a position of strength. And in America, this means financial strength."

Burrell is not talking about a surge of Negro business dependent upon Negro customers, nor does he want a "buy black" movement among Negroes. He envisages Negro businessmen competing in an open, nonracial market.

At least half of his own drycleaning business' customers are white. Says Burrell: "I hate to think of what would happen to me if I were restricted to a segregated market."

Burrell recognizes the absence of historic Negroes ties to business endeavor, and is pushing a campaign to make business enterprise more attractive to young Negroes. In his own case, he was motivated by his father, a barber and Government worker who took frequent fliers into the restaurant business, and by his mother who operates a hairdressing shop.

Militant Negro civil rights leaders, Burrell argues, have failed to appreciate the importance of creating more Negro-owned businesses. He contends that Negro-owned enterprises, catering to both whites and Negroes, act as a tool in integration. He plays up the significance of places like Paschal Bros. nightclub and restaurant, opened 4 years ago in Atlanta's southwest Negro section. A fabulously successful venture, it features topnotch jazz talent and attracts a trade which is at least one-quarter white.

Says Burrell: "Even in Jackson, Miss., if some Negro had a really first-class, air-conditioned hotel, the whites would find some way to use it."

He brushes aside criticism from some Negro leaders that Negro businessmen have been dragging their feet on the civil rights cause. "The Negro businessman doesn't have to be out in the street with a picket sign," says Burrell. "His responsibility is to furnish jobs." Burrell notes that Negro-owned businesses provide jobs for only less than 1 percent of the Negro work force.

Burrell has become a crusader on the question of fostering up-to-date management practices among Negro businessmen. Says he: "Our innate inefficiency makes it difficult for Negroes to keep their own markets, let alone to consider the pursuit of open markets. Business has become a science. It's no longer something that can be handled off the top of your head."

The lack of expertise early in his own career resulted in two serious business blunders. "In my first week in business," he recalls, "I did so well—$600 to $700 worth of sales—I thought I could do five times as well if I had five more stores." In a short time, he opened up additional cleaning outlets, then had to shut them down when he discovered how far he had overextended himself.

In another case, he paid off a 10-year loan of $49,000 in 3 years, then realized there was no advantage in paying off the long-term debt with fast payments. "This left me in a miserable cash position and created a tax liability I couldn't overcome."

He has subsequently taken several business management courses and is encouraging other Negro businessmen to do the same.

Burrell believes Negro businessmen should be more conscious of civic affairs. "Negro

businessmen have never been involved before. So they aren't able to relate their own growth to the growth of their communities."

Burrell's views recently generated a squabble, within the local Washington chapters of the National Negro Business Organization. Some members disagreed with Burrell's stress on community interests. They said the more immediate problems of Negro businessmen rated a higher priority in the organization's program. The dissenters eventually quit Burrell's chapter and formed a rival group.

PART 4: THE NEGRO BUSINESSMAN IN AMERICA

(By Morton A. Reichek, Advance News Service)

WASHINGTON.—The Gotham, once the most popular hotel for Negroes in Detroit, is shut down. In New York City, the Hotel Theresa, a Harlem landmark for years, is in receivership. Here in Washington, close to Capitol Hill, Harrison's Restaurant, long patronized by upper class Negroes, is described as "a shell" by a former patron. In St. Louis, Kansas City, Pittsburgh, and other cities, Negro newspapers are struggling against severe advertising and circulation declines.

These are symtoms of the boomerang effect of advances in civil rights.

As the major hotels, restaurants, and places of entertainment drop racial bars, Negroes in many cities are shunning the inferior facilities of Negro-owned establishments. The impact is the same on many other Negro enterprises exposed for the first time to searing competition from more strongly endowed white-owned businesses.

"Civil rights advances have complicated the problems of Negro businessmen whose activities were predicated on a segregated community," says Prof. H. Naylor Fitzhugh of Howard University here. "Their monopoly in the marketplace has been removed."

Although they don't like to talk about it very much, many Negro businessmen are in a moral quandary: emotionally, they are tied to the civil rights cause. But as men who have lived off segregation, they now face the threat of being integrated out of business.

Some Negro spokesmen are rather cold-blooded about the consequences. Says Texas-born Hobart Taylor, Jr., a Detroit lawyer who is executive vice chairman of the President's Committee on Equal Employment Opportunity: "Negro business isn't going to exist anymore. Negroes have a concept of racial business only because of artificial barriers."

"Inefficient, mismanaged Negro businesses will die," says John H. Johnson, publisher of Ebony and other magazines aimed at Negro readers, "and they deserve to."

Stores in so-called fringe neighborhoods are feeling the pinch badly. Negro-owned enterprises dealing in personal services in completely Negro neighborhoods—barber shops, beauty parlors, mortuaries, and the like—are relatively unaffected. In cosmetics manufacturing, a major Negro industry, nationally advertised white companies are pouring into the Negro market.

Hotels and restaurants are hurting worst. "Whenever I came to Washington before," says a Negro college professor who visits here often, "I used to stay at the Dunbar. Why should I go there now when I can go to the Mayflower or the Shoreham?"

During the past year in Chicago, a major convention city, at least 10 conventions of Negro organizations have been held. In the past, the meetings were held in Negro hotels, churches, the YMCA and settlement houses. The delegates would stay at Negro hotels, roominghouses, and private homes, and eat in Negro-owned restaurants. Now the conventions meet in the major hotels in the Loop or lake shore area; the delegates patronize the finer nearby restaurants.

Theodore R. Hagans, general manager of Washington's Dunbar Hotel and president of the Nationwide Hotel Association, representing 200 hotels operated for Negroes, says that "our concern is not the total loss of Negro patrons, but the problem of competing with open hotels with inadequate funds. We can't finance the improvement of our facilities to meet the competition.

"We can make our prices competitive, but we no longer get the cream of the Negro traveler—the big entertainers, and so forth. As long as we maintain an economic situation, we will still get the bulk of the Negro trade. The majority of Negroes are interested in economy as long as the facilities are not offensive."

Hagans predicts that "many Negro hotels will go by the wayside." But he's optimistic that many—including his own, which supports itself on residential guests—will survive by sprucing up their facilities.

"Now it's fashionable to go to a white hotel to prove you can go where you want," he says. "But this won't be as important 5 years from now. When the dust settles, you go where you feel most comfortable, where you are treated as a preferred patron."

Bankers, the elite of the Negro business community, say they have been largely unaffected by civil rights advances. "We have always competed with white banks," says Lorimer D. Milton, president of Atlanta's Citizens Trust Co., which until recently was the only Negro-controlled bank belonging to the Federal Reserve System. "There's no segregation against money."

But life insurance companies, the other major element in Negro business, are encountering new competition from white firms. In the past, many insurance companies would not write policies on Negroes. Or, if they did accept Negro customers, the premium costs would be higher. Increased Negro purchasing power and improved Negro mortality rates, however, have recently made the Negro a major sales target.

Says Earl B. Dickerson, president of Chicago's Supreme Life Insurance Co., the North's largest Negro-run business: "A number of white companies have hired our agents, are able to give them more money and a more established name. They are coming into our market with great zest and force."

A Chicago Negro agent, formerly employed by a Negro insurance company and now working for a major white firm, has sold at least $1 million worth of insurance every year in the past 7 years. "This is real penetration of our market," says a Negro leader.

Negro insurance firms, however, are not suffering a decline in business. Supreme, for instance, paid a record high dividend this year. North Carolina Mutual Insurance Co., is constructing a magnificent 12-story sculptured glass and concrete office building in Durham, N.C.

Instead, their problem has been an inability to gain as much as they might have in the past from the rapidly growing number of Negro insurance buyers.

"Segregation has given me 10 percent of the national market," says T. M. Alexander, an Atlanta Negro insurance man. "Now the white man is after my 10 percent. What we have to do is go after his 90 percent. We have to be good enough to do this. I think we are. I don't mind running the race on a competitive basis. But I don't want more holes in my path than in my competitor's."

PART 5: THE NEGRO BUSINESSMAN IN AMERICA

(By Morton A. Reichek, Advance News Service)

ATLANTA, GA.—Not so many years ago, two local Negro boys, Herman J. Russell, a plasterer's son, and Alfred L. Knox, the son of a grocer, were classmates at David T. Howard High School.

Today both are prosperous businessmen, and each is a notable example of how the traditional patterns of Negro business are being shattered.

Russell, now 33, is a construction contractor who specializes in apartment houses, warehouses, and other commercial structures. Normally, Negro builders have stuck close to the Negro market, particularly here in the Deep South.

But Russell is competing vigorously on the open market. He figures that about 90 percent of his clientele is white. So is at least 10 percent of his 170-man work force.

Knox, 34, is the proprietor of a five-and-dime variety store. A college graduate who majored in business administration, he has a huge attractive store building which he and a brother, a partner in the business, built almost 3 years ago. He is a student of the latest techniques in retail merchandising, and says his prices are in line with those of the large white-owned chainstores. Since so many of his customers own cars, he considers any store within 5 miles his competition.

Although Knox's store is in a low-income Negro neighborhood, Knox is the antithesis of the typical Negro retail merchant.

"The usual Negro merchant," says a noted marketing consultant, "maintains second-rate operations in substandard facilities, trading on racial loyalty. He has no opportunity for experience in modern merchandising methods. His inbred market doesn't demand more. His thinking, experience, and growth potential are limited."

Russell is described by a local Negro businessman as "Atlanta's next colored millionaire." (The city already has several, mostly bankers, insurance men and doctors.) Russell is a soft-spoken, unaffected man who feels most comfortable in work clothes even in his ultramodern, spanking-new office building.

His firm will handle $10 million worth of construction work this year both in general construction and plastering and drywall subcontract work.

Russell also manages a 150-unit interracial housing development he built; is partner in a joint venture which is building a $5-million, 520-unit housing project for the Wheat Street Baptist Church (the largest construction job ever handled by a Negro firm, he claims); and is vice president of Security Development and Investment Co., which he and four white men (two builders, an accountant, and a dentist) have organized for construction of up to 1,000 apartment units and other projects.

For his family, a wife and two children, Russell is putting up a $125,000 home with an indoor swimming pool. Last year, he became the first Negro member of the Atlanta Chamber of Commerce.

Russell was reportedly invited to join when the chamber mistakenly assumed he was white.

Ten years ago, Russell was graduated from Tuskegee Institute in Alabama, where he majored in building construction. Following his father's example, he started a plastering business, then later expanded into general construction.

"Race has been more of a challenge than a handicap to me in business," Russell says. He credits improved race relations for his success. "My daddy never had my opportunities," he says. "If he had knocked on 70 architects' doors to bid on the kinds of jobs I do, they'd have thought he was crazy."

How does he compete successfully for white business against white firms? Russell's answer: "We have the best mechanics in town in our shop, which puts us in a position to compete with anyone. We have

a group of people wedded to work, and we know how to sharpen our bids."

An agent of the local building trades unions complains that Russell employs nonunion men, pays less than prevailing wages, thus can undercut competing bids. Defending Russell, an Urban League official charges that the building unions "have not been fair to Negro workers."

Russell's firm was recently awarded a major plastering job at the Atlanta Airport. According to an authoritative source, the firm landed the job on the basis of its reputation; it had submitted the second lowest of three bids.

In terms of business volume, Knox isn't in Russell's league. His store, which carries hardware, a small line of dry goods, cosmetics, patent medicines, notions, work clothes, girls' dresses, lingerie, plants, and greeting cards, takes in about $60,000 a year.

Knox and his brother ran a grocery store until 2½ years ago, then were pushed out by an urban renewal project. This is a problem for many Negro merchants in large cities. Most are displaced from slum areas in which even a marginal business could survive, then are unable to afford the higher rents required in newer neighborhoods.

The Knox brothers had enough money to build their present store and to acquire an adjacent property for possible expansion. In Northern cities, Negro businessmen constantly complain about the lack of capital. "This is no problem for us in Atlanta," Knox says.

Knox says his business problems are matters of size, not race. He faces the classic problem of small merchants, white or black, who compete against large chainstores. The chains can buy merchandise and advertising cheaper and can usually trim profit margins.

However, says Knox, "If Woolworth's or Sears were to put up a store across the street, this would help me. It would make me get more on the ball. I have an asset they don't have. The personal touch. I get to know my customers by name. It means something for them to be wanted."

Knox says, "I try not to think about being the only Negro-owned store of its kind around here. I don't want my Negro customers to trade with me because I'm a Negro. They might expect to pay more, and I might start thinking about raising my markups. I want people to trade with me because I can give the same price and service—or maybe better—than the downtown stores."

PART 6: THE NEGRO BUSINESSMAN IN AMERICA

(By Morton A. Reichek, Advance News Service)

WASHINGTON.—Like most American Negroes, Negro businessmen have what Dr. Samuel Z. Westerfield calls a vague mystical kind of racial interest in Africa.

On the basis of racial kinship with the newly independent Africans, many of them dream of fabulous business opportunities awaiting them in the huge undeveloped continent. Most are frustrated by their lack of resources to exploit them.

Westerfield, who was formerly dean of Atlanta University's School of Business Administration and is now a Deputy Assistant Secretary of State, warns that Africans are more interested in the competence of investors in their nations than in race.

Ambassadors from several new African nations have told him, in effect, that "the American Negro does not represent what we need. We don't want second-class American citizens who lack technical know-how and capital resources."

Prof. Horace Mann Bond, an Atlanta University historian and a leading student of African affairs who has acted as clearinghouse on the continent for many American Negro businessmen, says that the African outlook is brightest for Negroes who are "associated with the large American corporations, not for the small individual investor."

Bond points out that "expansion in Africa is big stuff—development projects which require massive capital investment. It is not for private people."

Despite this sort of talk from the experts, many American Negro businessmen are probing into African business opportunities. And some of them are making good.

One of the most successful cases involved three New Yorkers, a lawyer, an actuary, and an accountant, who set up a life insurance company in Ghana 8 years ago. Last year, the Ghana Government nationalized the firm. The company's founders were compensated, and one of the Americans, Robert Freeman, was retained to manage its operations.

Another New York Negro, Tom Brown, a refrigeration and air conditioning specialist, has started a company in Accra, Ghana's capital, called Camafrica. Brown's company produces coolers for Coca-Cola and Pepsi-Cola, and oil cans and service station equipment for Texaco, Shell, and Mobil Oil Co. He also has a crew of 30 Ghanaian sheetmetal workers, welders, electricians, and mechanics to service refrigerators and air conditioning equipment.

A Harvard-educated American Negro lawyer who was once a classmate of Ghana's President Kwame Nkrumah at Lincoln University, a Negro school in Pennsylvania, has a Pepsi-Cola franchise in the same country.

Also in Ghana: The American proprietor of the country's first clothes pressing shop and a Chicagoan who has bought a trawler and is starting a frozen fish business.

In Liberia, American Negroes have established a liquid oxygen plant, an electric utility system in Monrovia, and are participating in the massive American-Swedish Minerals Co.-Bethlehem Steel Co. iron mining project on Mount Nimba.

In Nigeria, a couple of Negroes from Detroit have begun a lumbering operation, and a group from Los Angeles, Chicago, and New York is manufacturing concrete block. In Kenya, an American Negro is now in the coffee business.

Last October, a group of eight Negro businessmen from California, headed by Willis Carson, a Los Angeles real estate broker, and James Woods, a Compton builder, conducted what they called "The Men of Tomorrow Trade Tour of West Africa." They visited Liberia, Ghana, Sierra Leone, and Nigeria in a widely heralded effort to examine investment opportunities. So far, the results of the tour are uncertain.

A. G. Gaston, Sr., of Birmingham, Ala., one of the wealthiest Negro businessmen in the country, has also junketed around Africa looking for business opportunities. Gaston, who has many interests at home—ranging from a funeral parlor and insurance agency to a savings and loan association and a motel—reportedly has invested in a Liberian business.

A few years ago, Dunbar McLarren, an economics Ph. D. from the University of Illinois, attached himself to the late Patrice Lumumba, the first native leader of the former Belgian Congo, hoping to promote business interests. When Lumumba turned out to be an erratic rabblerouser with ideological leanings toward the Soviet bloc, McLarren jumped off the Congolese's bandwagon. He is now reportedly in Nigeria for the Rockefeller interests determining the feasibility of developing a glass industry.

Some American Negroes have demonstrated unusual naivete in their approach to African business. A former student of Dr. Westerfield, who was earning $30,000 a year operating gas stations in Atlanta, sold his business and rushed to Africa to try his luck. He went over with a minimum of preparation. Westerfield doesn't know what has happened to him.

A New York business consultant who specializes in African matters tells of a small Negro floor-wax manufacturer from Brooklyn who wanted a list of potential customers in Nigeria.

The man thought he might have a competitive advantage because he is a Negro. First off, the consultant told him he couldn't expect to establish sales contacts by mail, that he would have to scratch up enough money to go to Nigeria personally. He also told him his race was irrelevant.

Says the consultant: "If he can buy a better product more cheaply from Lever Bros. in the United Kingdom, the Nigerian businessman will do so, and disregard a Negro supplier from the United States. This will be the case even though he has to buy from his former colonial master."

LeRoy W. Jeffries, vice president of Chicago's Johnson Publishing Co. (Ebony and other magazines), sums up the view of American Negro businessmen on Africa:

"As Negro businessmen with a vested interest in America, we should make every possible financial effort to profitably aid in the development of (African) nations. After all, who can be a better salesman of democracy than an American Negro businessman with some worthwhile product or service to offer?"

PART 7: THE NEGRO BUSINESSMAN IN AMERICA

(By Morton A. Reichek, Advance News Service)

CHICAGO.—S. B. Fuller, a dapper, ebullient 58-year-old man who reminds you of a fire-and-brimstone preacher, is the biggest Negro industrialist in America. Little known to the general public, Fuller is one of the most controversial figures in the Negro community.

He is president of Fuller Products Co., a firm he started 28 years ago on $25. He now sells over $10 million worth of cosmetics and allied products to both Negroes and whites. Fuller also controls eight other corporations, including a Chicago department store, the Courier chain of Negro newspapers published in five cities, and a New York real estate trust. His income runs well over $ 100,000 a year.

Fuller is a rugged individualist of the old school, a fierce business competitor, and an exponent of the "hard sell" who conducts inspirational singing meetings for his salesmen.

He has provocative opinions about the racial situation which never fail to infuriate other Negroes. In essence, Fuller believes that Negroes have been held back not because of racial discrimination but because of their failure to work harder. He says Negroes should channel their energies more toward business enterprise than to civil rights demonstrations.

Fuller also thinks that public welfare measures are destructive for the Negro. "If you feed a man who's hungry," he once told a friend, "he'll have no incentive for improving himself."

Fuller likes to tell of his father who collected old bottles, rags, and other scrap with a horse and wagon in a southern town some 25 years ago. At the time, Fuller was in Chicago peddling soap, door to door.

He told his father he would save money to buy him a truck. His father said he didn't need a truck, disposed of his horse and wagon, and went to work for the WPA. To this day, Fuller tells people that WPA "destroyed" his father and prevented him from becoming a successful scrap dealer.

Louisiana-born, Fuller had a sixth-grade education, moved to Memphis at 15, and arrived in Chicago on a boxcar at 23. The Fuller Products Co. emerged from his door-to-door peddling. Recently he built a $100,000 home in a rundown Negro neighborhood to "inspire his people." He rarely, if ever, contributes money to Negro civil rights causes.

It was obviously men like Fuller who prompted one Negro intellectual leader—now a high-level official in the Kennedy administration—to say recently: "The Negro businessman is not in tune with the main thrust of our social revolution. He's out of touch."

It can be said—and many Negro intellectuals like to emphasize it—that some Negro businessmen have a vested interest in segregation. This is not necessarily true in Fuller's case. His company has bought two brands of cosmetics marketed for white people, and is pushing into the general market. About 20 percent of the 600 persons directly on his payroll are white, as are almost as many of the 3,000 people who sell Fuller products door to door.

A prominent Negro real estate and insurance broker in Washington with a largely Negro clientele has this to say: "Civil rights advances have helped us greatly. As Negroes get improved education, housing, and employment opportunities and a higher standard of living, there are more people with properties for us to insure and more customers to buy and rent homes. As the community is enriched, our business is helped."

Negro businessmen, as conservative by nature as any other businessman, have indeed been slow to support the civil rights militants. One who has been widely criticized for his aloofness is A. G. Gaston, Sr., a millionaire who lives amid quasi-Victorian splendor on a farm outside Birmingham. In recent months, Gaston's home and a motel he operates have been bombed. He is now a large contributor to the civil rights movement and has frequently paid jail bond for Dr. Martin Luther King and his followers.

"Gaston and others like him," says a Negro critic, "were never interested in the cutting edge of change. They used to belong to the don't-rock-the-boat school."

Most Negro businessmen bristle at such criticism. Says John H. Johnson, publisher of Ebony and other Negro magazines: "No Negro has a stake in segregation. Segregation keeps the Negro businessman from 90 percent of his sales potential."

"Sure, I don't march with a sign on my back," says Jesse B. Blayton, Sr., president of the Mutual Federal Savings & Loan Association in Atlanta, "but I give lots of money to those who do."

Some prominent Negro businessmen have walked on the racial picket lines. Two notable examples: John Wheeler, president of the Mechanics & Farmers Bank in Durham, N.C., a member of the President's Committee on Equal Employment Opportunity, and T. M. Alexander, Sr., executive vice president of Atlanta's Southeastern Fidelity Fire Insurance Co., who also operates real estate and insurance brokerages.

Edwin Berry, director of the Chicago Urban League, defends the Negro businessman against criticism from the intellectuals: "He's more in touch with the Negro masses than the Negro egghead. He has to go to the store where the masses are. He's not stuck in an ivory tower.

"Some of these people feel you're indecent if you haven't been to jail for picketing. You can't expect everyone to grab the flag and run."

"We need to join the fight for civil rights in our own way," says one Negro merchant. "There's more than one way to win the war. Businessmen have provided the money and facilities to fight the battle. We fight the hard way, the way to permanent respect."

A southern white social worker who has been active in the civil rights movement defends the role of the Negro businessmen like this:

"The criticism has been unfair. The achievements of these men have been based on working out some sort of modus operandi with the white power structure. You can't build a successful business in a state of warfare with the authorities."

PART 8: THE NEGRO BUSINESSMAN IN AMERICA

(By Morton A. Reichek, Advance News Service)

CHICAGO.—There is a growing awareness among Negroes of the impact of business on national life," says a leading Negro civic leader. "We have gotten a peek into the larger community, and we see that economics, more than politics, controls things.

"We used to think it was a big deal if we got to use a white restaurant or hotel. Now, when some of us spend money in white establishments, we think what a shame this money isn't going into Negro-owned business."

This kind of talk makes most Negro civil rights leaders shudder. It clashes with their effort to minimize racial loyalties and flies in the face of their drive for total cultural integration.

Even more significantly, this attitude conflicts with the aim of the more sophisticated Negro businessman who wants to advance out of the segregated marketplace into the Nation's economic mainstream by playing down the image of a special Negro market.

Paradoxically, the push for integration and the resulting racial stresses have created Negro chauvinism of a degree which has never existed before in this country. There is a growing sense of racial identification and consciousness spawned by the emotional conflicts over civil rights.

T. M. Alexander, Sr., executive vice president of Atlanta's Southeastern Fidelity Fire Insurance Co. and a leading advocate of competition by Negro businessmen in the open, nonracial market (an insurance brokerage he owns was the first Negro agency to represent white companies south of Washington, D.C.), concedes this.

He says, probably with misgivings, "My business is helped by agitation in civil rights. Negroes have become more conscious about doing business with other Negroes in areas where they have always had an opportunity to do so. All adverse racial experience simply sends more business to my agents."

The volume of trading by Negro consumers with Negro businessmen is frequently a barometer of racial tensions. "When tensions are not sharp, Negro businessmen have to compete on the basis of competence and economics," says Jesse B. Blayton, Sr., an Atlanta banker, radio station owner, CPA, and college professor.

When tensions are hot, he says, the tendency will be for Negroes to buy from other Negroes, regardless of price and other competitive factors.

In the wake of recent racial disturbances in Birmingham, new deposits have been burgeoning in the Citizens Federal Savings & Loan Association, a Negro-controlled institution, as Negroes remove savings from white banks.

Even when the racial climate is more relaxed, many Negroes have demonstrated extraordinary racial loyalty in business matters. In Houston, Tex., a new Negro-owned bank is siphoning off deposits from white-managed banks. In Miami, Fla., where two Negro-managed savings and loan associations have been set up, there has been considerable withdrawal of Negro funds from white-owned savings institutions.

In its most extreme form, Negro racial chauvinism manifests itself in the racist, pseudo-religious Black Muslim movement which advocates both cultural and economic separation of the races.

The movement's ideal is to create enough business enterprise to provide a self-contained source of employment for all Negroes, according to C. Eric Lincoln, historian at Clark College in Atlanta and a noted student of the Black Muslims.

Wherever they set up temples, the Black Muslims try to establish small business enterprises. Lincoln says, "I know of no city with a Black Muslim temple which does not also have a business run by the movement." The movement now has temples in 78 cities.

It has a used car lot in Boston, a used clothing store in Pittsburgh, and restaurants in New York and Atlanta. In other cities, the movement operates barber shops, shoe repair shops, laundries, and drycleaning stores. It has a 400-acre farm outside Atlanta and a smaller one in Michigan.

Lincoln appraises the extent of Black Muslim business activities so far, however, as "not significant."

Some Negro businessmen, notably those without pretensions of advancing into the open nonracial market, have used their economic power as a lever for racial demands. For example, A. G. Gaston, Sr., a millionaire Birmingham entrepreneur with varied interests, is a regular and substantial buyer of limousines for a thriving funeral parlor he operates. He recently told his limousine supplier not to come back for new orders unless he sends a Negro salesman.

Even Negro businessmen who want to repudiate racial loyalty as the basis for doing business assume that race will continue to be an ingredient in certain kinds of enterprise.

Discussing the future of his magazine, Ebony, a monthly Life-like magazine with a circulation of about 1 million, John H. Johnson, the publisher, says: Certain things bind Catholics, Jews, farmers, and teenagers together. There are publications for each of these specialized areas. I see no reason why integration should diminish my opportunities."

PART 9: THE NEGRO BUSINESS IN AMERICA

(By Morton A. Reichek, Advance News Service)

WASHINGTON.—Will Negro-owned business go down with segregation? Or will Negro business enterprise expand as racial barriers fall?

Dr. Andrew F. Brimmer, a Negro on leave as assistant professor of finance at the University of Pennsylvania, now Deputy Assistant Secretary of Commerce for Economic Affairs, offers this assessment:

"There are not likely to be many major enterprises owned and operated by Negroes which can flourish in a Negro market exclusively. They must look to the marketplace in general. There will be a withering away if they plan to live entirely in the Negro community. Anyone who thinks he has a safe preserve in the Negro market is in for trouble."

Already, many larger Negro-managed businesses are engaging in vigorous open competition in what could amount to a fight for survival.

Many Negro banks are soliciting white accounts. In Atlanta, the Citizens Trust Co. has landed an account of the Lockheed Aircraft Corp., which has a large defense plant nearby at Marietta, Ga.

Negro-controlled savings and loan associations, particularly in California, are acquiring deposits of non-Negroes.

Q. V. Williamson, a major Negro realtor in Atlanta, says he is selling for and to whites for the first time. "This represents only

about 3 percent of my volume," he says, "but I know of other Negro real estate men here who have a considerably larger volume of white business."

Negro insurance companies are bracing for the competitive battle by merging with smaller firms, issuing new types of policies, and hiring white agents to sell on the open market.

North Carolina Mutual of Durham, the largest Negro-owned business in the world, has merged with Unity Life. Chicago's Supreme Life, the biggest Negro business in the North, has acquired five smaller Negro insurance companies in the past 8 years. Now it is trying to crack Japanese and Mexican insurance markets on the West Coast by hiring Japanese and Mexican salesmen. Many of the major companies are reducing premiums and diversifying into medical and casualty insurance.

A primary objective of the larger Negro companies is to hire more white employees to enhance the image of integration. But many of the firms are not as successful as they would like to be.

"The old prejudice against white-Negro associations keeps whites from working for us," complains Supreme Life's president, Earl B. Dickerson, who is looking for white data processing technicians as well as agents. "Whites have declined our opportunities. They don't want to work at close range with Negroes. They fear this might adversely affect their future careers in other companies."

In cosmetics, the larger Negro-owned firms are invading the white market. Chicago's Fuller Products Co. has succeeded by acquiring established product lines in the white market. The Cannonlene Co. in Atlanta, has hired white salesmen and is selling to department stores in Northern cities.

A notable trend among Negro businessmen is to get outside the traditional Negro industries. In Chicago, Louis Alexander has set up a small electronics company and landed a military contract. Louis Roberts, a Fisk-trained physicist and Richard Walker, an MIT graduate in engineering, started Microwave Associates, near Boston.

Ernest Wilkins, a Chicago mathematician, formed a firm known as Nuclear Research Associates in New York City. Henry Hill, a Negro chemist, established Riverside Research Laboratories at Cambridge, Mass.

Archie Smith, a Texas-born pilot examiner for the Federal Aviation Agency, operates Warhawk Aviation Service in White Plains, N.Y. He offers flight instruction, sightseeing tours, air-taxi service, and charter service to any spot in the United States or Canada.

The Vee-Jay Record Co. in Chicago, begun on less than $3,000 in 1946 by a Gary, Ind., record shop owner and his wife, now grosses $3 million annually, has a talent roster which includes about 30 percent white artists.

Dealer franchises in such fields as appliances, automotive equipment, heating oil distribution, gasoline stations, and automobiles are enterprises which figure prominently in the plans of Negro businessmen. Forty out of 700 gasoline service stations in the metropolitan Washington area are now owned and operated by Negroes. More Negro money is invested here in this type of enterprise than in any other three major kinds of retail business combined.

Chrysler Corp. is considering the award of a Chrysler-Plymouth franchise to a Negro in Detoit, Edward Davis. This would make Davis, now a vice president in a white-owned Ford dealership, the Nation's first Negro new car dealer.

Still, the number of Negro-owned businesses is on the decline. But this reflects general economic trends rather than racial considerations. Negro-owned enterprise is essentially small business. The overall national pattern shows rougher sledding for small, independently owned businesses, regardless of racial ownership. In merchandising, the large chainstores are pushing aside small retail stores. In other industries, the profit squeeze is getting tighter on the smaller entrepreneur.

One consequence of civil rights advances also discourages the growth of Negro-owned business. As better employment opportunities open up, many Negroes will find it more attractive to work for some one else than to strike out on their own.

Many Negro business observers, however, consider this a short-term trend. They believe that as more Negroes acquire greater managerial know-how in new fields of endeavor, are exposed more widely to the world of business, and can accumulate capital under liberalized employment conditions, the long-range outlook is for an upsurge in Negro-operated business enterprise.

Meantime, Negro-owned businesses are getting a steadily declining share of the Negro consumer dollar. The problem is this: Negro-operated business is primarily of a service nature and the Negro service market is shrinking.

As overall Negro income continues to zoom, Negro families—especially the rising numbers entering the middle class—are spending fewer dollars on services and more for purchases of consumer appliances and in other areas where Negro businessmen are not yet active.

While many Negroes talk excitedly about the future of the American Negro in business, there is considerable sour talk from others who see no particular virtue in increased Negro participation as entrepreneurs.

Says one cynic, a Negro social worker in Chicago: "I hope Negroes don't rush into business. White people are always trying to sell us hand-me-downs."

ASSASSINATION OF PRESIDENT WAS AN INDIVIDUAL ACT

Mr. MUNDT. Mr. President. A group of propagandists in foreign lands and a few commentators and writers in America have sought to convey the erronous idea that the tragic and brutal assassination of President Kennedy reflected "an American attitude" and that all our citizens should have a sense of guilt because of this atrocious act. Fortunately, however, wiser and more thoughtful spokesmen are now making clear the fact which should have been apparent to us all; namely, that Oswald was a malicious killer and that his murderer, in turn, was an erratic individual and publicity seeker.

Except for the established fact that Oswald was an avowed and admitted Communist and a leader of a group supporting Castro and his Communist regime in Cuba, there is no evidence indicating he was a member of a conspiracy planning the assassination of the President nor active in any of the "Hate America" groups whose mimeographed mailings and rantings in a public press seemingly eager to balloon such statements up into important news stories to clutter our American scene. So the murder of the President is Oswald's individual guilt and the killing of Oswald was by another guilty individual by name of Ruby or Rubinstein, whichever is correct. Neither individual remotely reflects American attitudes, or thoughts, or sentiments, and no American other than those two need feel twinges of conscience because two madmen out of nearly 200 million Americans decided to violate the laws of God and man by committing coldblooded murder.

In our vast country, murders are committed somewhere and by somebody every day of the year. Whether committed as acts of passion or premeditation or fear of capture or detection, each murder to be sure demonstrates a weakness somewhere in our society, but this side of heaven, I presume violent men will at times resort to violent acts and perfect law and order can never be obtained. We can and should strive for improvement, of course; better child training in the home and in the schools will help; a more successful program of instilling the respect and restraints which a good religion teaches will also assist; more vigorous law enforcement and more severe terms for those arrested for breaking the law will surely be helpful; the early detection of the mentally depraved or maladjusted will be useful together with better methods of correcting or curtailing the likelihood of violence from those mentally unbalanced.

But, perfection, we shall never have except as a distant goal toward which we all should strive, so when madmen strike at high places it is a demonstration of an individual failure just as when they run amuck in their own communities and take the lives of their own neighbors, but certainly this is not a demonstration that as a nation we have gone mad, or that we condone murder, or that we lack the morals and methods necessary to maintain a sound society.

Recently, three separate articles from widely separated sources have come to my attention, calling attention to the facts obtained in the assassination of our President and stressing the fact that this tragedy was caused by individual actions reflecting not at all upon the honor, the integrity, the stability, and the good judgment of Americans as a whole.

I ask unanimous consent that these three articles be printed in the RECORD at this point in my remarks. I feel they will be useful to historians many decades from now who will be called upon to assess the era of the sixties.

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

[From the Evening Star, Nov. 27, 1963]

ASSASSINATION EVOKES ODD VIEWS—MANY SEEN LINKING KENNEDY KILLING TO RACISTS, RIGHTISTS, DEPITE FACTS

(By Richard Wilson)

The mood of self-extermination which has overtaken the country following the assassination of President Kennedy has produced both ludicrous speculation and tortured reasoning.

We can see coming now the tracts entitled "The Conspiracy To Murder John F. Kennedy." In one version it will be an inverse antidesegregation conspiracy using a double-agent Communist to carry out the deed. In another version it will be just a plain Communist conspiracy. Additional

versions will prove the ingenuity of the human mind when stimulated by 4 days of unremitting TV-radio programing.

These fantasies are not confined to the lunatic fringe. Here in Washington, simple but seriously intentioned people arrived at the strange conclusion that the murder of the President is related in some amorphous way to the slaying of a desegregation leader in Mississippi.

In spite of the simple facts of the assassination, there are many in this city who will not separate the President's tragic death from the segregation and far right issues. Their tortured reasoning is that the assassin came out of the same pot, that the city of Dallas in the reactionary Southwest had spawned them all and all were equally culpable.

Even the Chief Justice of the United States allowed himself to stray from the path of sound reasoning. The misguided could deduce from his remarks that the extremities of the right in this particular case carried a responsibility for inspiring the extremities of the far left.

It is understandable that reasonable men, shocked and perplexed, should grope for the causes of the savagely incongruous event. But why there should be supposed to be any vague relationship between the assassination of President Kennedy and the assassination of President Lincoln escapes rationality. Lincoln's assassination was indeed the act of a crazed and pitifully inadequate conspiracy that aspired to control of the Nation. That assassination was part of the great Civil War over the issue of slavery and the rights of the States.

All too often, and without sound cause, the events of today are cast in the mold of a century ago, as if the relatively peaceful demonstrations for Negro equality were revolutionary acts. All too often the reaction of the white community of the Nation is related to the cause for which millions of men sprang to arms a century ago.

These exaggerations seem to be part of the uncertain national mood. It could be expected, therefore, that the man in the street last Friday, before the circumstances became known, should conclude that the attack on the President could be traced either to the segregation or the far-right issues.

This notion is given up by some only reluctantly and if any twisted version can be made to fit their preconceptions they readily turn to it.

Nothing could have been more repugnant to the vibrant spirit and rational mind of John F. Kennedy.

Now a series of inquiries is beginning. One is by the FBI and the Justice Department into both the assassination and the murder of the accused assassin. Another study will be conducted in Congress in connection with legislation to make a murderous attack on the President and Vice President a Federal crime wherever committed. The State of Texas will conduct a special ex post facto inquiry.

If these inquiries are well-conducted they can help to clarify whether or not Oswald, in fact, murdered the President and his probable motives; they can never prove in the legal sense, however, that Oswald was the assassin, and he will remain for all time the accused assassin.

Only a continuing self-examination by those who influence public thinking will find the root-causes for the act. It may simply be that the cause lies more in the disorderly, undisciplined and callous phases of American life than in the ideological concepts that divide the country.

But one simple fact should not be ignored. The accused, and likely, murderer was a proudly professed Marxist; he never boasted of being a segregationist or a far-righter.

[From the Sioux Falls (S. Dak.) Argus-Leader, Dec. 1, 1963]

ALL AREN'T RESPONSIBLE FOR MADMAN'S CRIME

Enough time has now elapsed since the assassination of President Kennedy to view the event with some detachment from the excitment of the moment.

And it is to be hoped that this means a more objective and understanding appraisal. If this is not the case, then it may well be said we are an immature nation.

Sharply distressing was the manner in which many persons in high places succumbed to emotional hysteria and actually descended to an intellectual gutter in their comment.

Among these, for example, was no less a person than Chief Justice Warren of the Supreme Court who charged that the murder was stimulated by the "hatred and malevolence that are eating their way into the bloodstream of American life."

The Minneapolis Tribune said much the same thing. So did many other prominent voices, including various Members of Congress as well as Drew Pearson and Walter Lippmann.

NO COLLECTIVE GUILT

Such nonsensical drivel was in effect a refutation of the factors of American freedom that permitted the crime to take place.

To say that all America shares the guilt is to say that vigorous moves should be made to control all noncomformists, to place them in cells, if need be, to prevent their misbehavior.

The Wall Street Journal ably stated the case a few days ago when it insisted, in a potent editorial, that this is "no time for collective guilt."

It said: "We find past understanding the remarks of some otherwise thoughtful men who, in their moment of shock, would indict a whole nation with a collective guilt. It seems to us that they themselves have yielded to the hysteria they would charge to others, and in so doing show that their own country is past their understanding."

ALSO IN THE PAST

What seems to have escaped these critics of the American mood is the realization that the killer was a mad zealot. Also apparently escaping them is the fact that the killing or the attempted killing of an American President is nothing new under the sun.

To describe the Dallas incident as a particular product of these times is to ignore history.

The blunt truth is that it has been always thus.

Almost a century ago—in 1865—Lincoln was killed. An assassin shot Garfield in 1881. McKinley was killed in 1901.

Even earlier—in 1835—Jackson escaped death because a would-be assassin's weapon misfired. While campaigning for a third term in 1912, Theodore Roosevelt was shot by a man who tried to kill him. Just before Franklin Roosevelt's inaugural in 1933, an attempt was made on his life. A guard was killed in 1950 when two fanatics attempted to shoot Truman.

IF WE ARE TO BE FREE

It is not pleasant to recite this record but it seems necessary to do so to place historical events in proper perspective so that all may understand that the life of a President is constantly in danger.

And those dangers in a sense stem from the very freedom and democracy of America.

Men go about freely. Even Presidents do. Fanatics are tolerated. Extreme expressions of opinion are permitted.

What should be made clear is that a potential killer of a President is almost invariably a man whose mind has become deranged. As I sought to set forth in my comment of last Sunday, President Kennedy's killer was obviously a madman. And this has been the case in respect to others who have made assaults on the lives of American Presidents.

To eliminate this possibility in any community or in the Nation means the imprisonment actually of all persons who seem to be queer or odd in their behavior. Such a policy, of course, would do damage to the principle of civil liberty about which so much is heard today.

BALLOTS, NOT BULLETS

Americanism permits wide expression of opinion. It grants an individual the right to campaign for war or peace. It allows him to attack the capitalistic system and, if he so desires, to criticize the President. He may call for the impeachment of his elected or appointed public officials.

But it doesn't allow anarchy. Happily the American people—the overwhelming percentage of them—accept the ballot box and our legal institutions as the proper and only way to effect the changes they advocate.

But occasionally men go berserk. And that, one might say, is virtually a calculated risk. Certainly the aberrations of these few are not to be construed as an indictment of the moral tone of the American people as a whole or of their way of life.

No occasion exists for hanging our heads in collective shame over the episode in Dallas. The incident, as the Wall Street Journal pointed out, "does not cast a shadow on the whole of America." As it says, an indictment of this type is vicious.

Let us go forward now with this realization, stressing our obvious strength instead of dwelling unpon fictitious weakness.

F. C. CHRISTOPHERSON.

[From the Washington (D.C.) Daily News, Nov. 27, 1963]

GUILT IS PERSONAL

(By William F. Buckley, Jr.)

The grief was spontaneous and, in most cases, wholly sincere. Not because Mr. Kennedy's policies were universally beloved, but because he was a man so intensely charming, whose personal vigor and robust enjoyment of life so invigorated almost all who beheld him. The metabolism of the whole Nation rose on account of the fairyland quality of the first family. After all, no divine typecaster could have done better than to get J.F.K. to play J.F.K., Jackie to play the First Lady, and the children to play themselves.

It is, of course, a little eerie how, in response to tragedy, everyone ends up saying just about the same thing. It is not the easiest thing to do to distinguish even between Khrushchev's encomium and the Pope's. It is absolutely impossible to distinguish between tributes given to him, and the messages of sorrow sent to his family, by officials at opposite ends of the political spectrum.

Those who were unmoved by Mr. Kennedy's career, and opposed his policies, tend to sound exactly like those who loved him and loved his programs as well.

Wanting to show their opposition to treachery, his critics, even at the expense of apparent hypocrisy, are prepared to blur in deference to the awesome occasion their estimate of (a) the man's fate and (b) the policies to which they were in opposition.

My own message, which I was called upon to make a few minutes after the President's death, began as follows (and thereby hangs a tale): "The assassination of President Kennedy was," I said, "the act presumably of a madman, heir to the madmen who killed Lincoln and McKinley, and, for that matter, Christ, reminding us that the beasts are al-

ways with us, and that they continue to play decisive roles in history and in human affairs."

I meant in that first sentence to try to warn against an impending storm, whose electricity was hot on the air.

The opinionmakers of the country, and probably large segments of the population, were getting ready to turn the President's tragedy into an excuse for a pogrom against the American right.

Within a matter of minutes, nationally known radio and television commentators had started in, suggesting that the assassination had been the work of a right wing extremist, and recalling that it was also in Dallas that Adlai Stevenson had recently been hit on the head by an anti-U.N. placard.

However, to the quite obvious dismay of the bloodhounds, it was only a matter of hours before the Dallas police put their finger on the probable culprit. An almost undeniable case apparently has been built against him and lo and behold—the assassin turned out to be a member of a Communist front who only a few years ago tried to give up his citizenship in Russia as a means of expressing his contempt for this country.

Goodness knows what would have happened if Lee Oswald had not been apprehended, or even if he had been apprehended a day or two later.

Even as it was, the dissappointment was more than some could bear, and the genocidal fury here and there broke its traces.

The point to remember is that the act in question, although it was done by a far left winger, is not an act for which the far left bears the collective guilt. It was made by a fiend. Oswald was, in all probabilty, psychotic; it is of no importance whatever whether his political delusions were of the left, or of the right. The finger that pulled that trigger was directed by a febrile mind. The political coordinates of that mind are purely coincidental, and nothing of a general nature is to be gathered from his membership in the Fair Play for Cuba Committee, or his sympathy with Marxism.

I do not suggest, obviously, that the far left is incapable of organized acts of political assassination. I say, merely, that this horror did not have the earmarks of one. The presumption, on all such occasions as this, is against a conclusion of collective guilt, whether imputed to the left or the right, whether to all the whites in Birmingham, all the Vietnamese in Saigon, or all the Jews in Jerusalem.

Let us hope there will not be a next time, though history is against such optimism; yet let us all recall that in crime, as in art, there is great scope for individuality.

So this is a time for courage. Even his most adamant political opponents acknowledged the personal courage Mr. Kennedy showed during his young and dazzling lifetime. Now, no doubt, he would desire that his countrymen also act courageously enduring their grief; and demonstrating to his bereaved family not only their compassion, but also their fortitude.

HATE, THE HIGHLY INFECTIOUS DISEASE

Mr. MAGNUSON. Mr. President, millions of sorrowful, thoughtful Americans listened Tuesday night as their FBI Director, J. Edgar Hoover, spoke to them and for them. His speech was very thoughtful and important and, in fact, was one of the most intelligent addresses I have ever read.

This man, who has built our Federal Bureau of Investigation into an organization of which each observant, thinking, forward-looking American can be proud, had much to say about the ways we can move to safeguard our Nation. He also spoke regarding the course of action taken today by entirely too many who, believing they are protecting our Nation, too often are doing exactly the opposite.

I am glad J. Edgar Hoover has won the Brotherhood Award of the Washington Hebrew Congregation. He deserves it.

I am also glad he has spoken as he has, because, if followed, his blueprint can help build a better America, one in which tolerance can replace hate. History has proved that hate produces little beyond destruction, while the exercise of tolerance with vigilance can build a nation and a better future.

I ask the unanimous consent that both the article written by Jerry O'Leary, Jr., concerning Mr. Hoover's speech, and printed in the Washington Evening Star on December 5, and the complete text of Mr. Hoover's address be printed in the RECORD.

Mr. President, later I shall speak further in regard to the address delivered by Mr. Hoover; but I make this request for the printing of his address in the RECORD, so that others will be able to have copies of his address.

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

HOOVER SAYS FANATICS ARE THREAT TO NATION

(By Jerry O'Leary, Jr.)

FBI Director J. Edgar Hoover warned last night against "venomous fanatics, whether they are extremists of the left or the right" and branded their acts of hate, terror, and intimidation a national disgrace.

Mr. Hoover's speech was broadcast by all the major radio networks as he accepted the Brotherhood Award at a testimonial dinner in his honor by the Brotherhood of the Washington Hebrew Congregation. At the dinner in the temple at Massachusetts Avenue and Macomb Street NW., Brotherhood President Arnold J. Fine presented Mr. Hoover with a Ner-Tamid, or everlasting light lamp of silver that once hung in a 13th century synagogue.

The inscription of the lamp reads: "The Brotherhood Award of the Washington Hebrew Congregation presented to John Edgar Hoover for his unswerving devotion to the betterment of brotherhood of all races, creeds, and colors."

MALICE SERVES COMMUNISM

Mr. Hoover said the cause of communism is well served by the hatemongers, the lunatic fringe and the other rabble who preach a doctrine of malice and intolerance toward their fellow man. He said they are carriers of a "highly infectious disease."

"They clutter the streets, and the mails, with their slanderous obscenities, urging impressionable teenagers and unstable adults to acts of hate, terror, and intimidation," said Mr. Hoover. "They have brought forth the bombs and ignited the flames that have killed decent Americans and even innocent children and destroyed churches and other temples of worship."

Mr. Hoover said these merchants of hate invariably attempt to drape themselves in a cloak of patriotism. "But their real objective is to profiteer and capitalize on ignorance, prejudice, and bigotry while destroying the very ideals which they claim to uphold," said the FBI Chief.

He said the Communists today continue with impunity to breathe out lies and distortions against the United States and that the peddling of "their dishonest doctrine to inexperienced and eager-to-believe young people it not unlike the peddling of filth and dope in its demoralizing effect."

HYSTERIA OF NO USE

Mr. Hoover declared that communism cannot be defeated by hysteria and name-calling but by education and living proof that our way of life is best.

The FBI Director pointed out that moral lethargy and neglect of duty has contributed to an increase of crime that has turned the streets into jungles of terror and fear.

"Disrespect for law and order," he said, "is a tragic moral sickness which attacks and destroys the American traditions of honesty, integrity, and fair play. The moral strength of the Nation has slipped alarmingly. National corruption is the sum total of individual corruption.

"We are at war with communism, and the sooner every red-blooded American realizes this, the safer we will be."

Jimmy Durante and his oldtime companion, Eddie Jackson, headlined the entertainment attended by 450 persons.

FAITH IN FREEDOM

(By J. Edgar Hoover, Director, Federal Bureau of Investigation)

This is a great moment in my life. To be recognized in this manner by the Brotherhood of the Washington Hebrew Congregation is a distinction which I shall cherish always.

I am especially honored by the presence of so many close friends, including the distinguished civic leaders whom you have selected as recipients of other awards.

How have these men come to positions of prominence in our community? It is because they have dedicated themselves to service—they have eagerly accepted the responsibilities of good citizenship, and they are willing to be judged upon their records of positive contributions to the cause of decency and of justice.

Decency and justice—these are the high aims of this brotherhood, just as they always have been an integral part of the Hebrew religion which has given mankind the Ten Commandments and the concept of a monotheistic God. For these sacred gifts, all true religions of the Western World are eternally indebted to you.

Americans of the Hebrew faith are doubly blessed. The rich cultural inheritance that has been handed down since early Biblical times to generation after generation of Jews is combined, in our country, with a proud heritage of freedom. It is a heritage that was won by the sweat, the blood, and the sacrifices of men and women of many nationalities and many religious creeds.

Devotion to God; belief in the inherent dignity of mankind; faith in man's ability, through divine providence, to guide his own destiny—these are the strong ties that hold together our United States, the greatest brotherhood of freedom in the history of the world.

No one has a deeper understanding of the true meaning of freedom than the members of the Hebrew faith, for no peoples have suffered more relentless persecution and injustice at the hands of tyranny through the ages.

Today the fires of antisemitism continue to burn with fierce intensity in many areas of the world. This is particularly true behind the Iron Curtain where communism, the bitter enemy of Judaism and of all other religions of the world, seeks to destroy your priceless heritage and the right of your people to live according to the tenets of God.

During the past generation, the conscience of decent men everywhere has been shocked by the continuing vicious atrocities that have been committed against Jews in the Soviet Union. Rabbis have been arrested and imprisoned or executed; synagogues have been desecrated; the traditional Jewish school system has been liquidated; and Hebrew literature, language and customs have been suppressed by the Russian Communists.

Despite Communist claims of improved conditions for Jews under the Khrushchev regime, the opposite actually is true. Additional forms of suppression have been introduced.

The observance of Passover no longer can be held according to tradition; sacred Hebrew burial customs have been obstructed; and a statewide program has been instituted to make Jews the scapegoats for criminal acts affecting the Russian economy. Jews are clearly identified by religion on the internal passport which all Soviet citizens must carry.

Last October the outrageous extent of this program was disclosed by the Moscow newspaper Izvestia when it announced the arrests of several persons involved in an alleged criminal conspiracy. The leaders of this gang have Jewish names, Izvestia told its readers in demanding a "show trial" and "death sentences."

Vicious outbursts of religious hatred such as this caused one American newspaper recently to warn its readers, "For reasons best known to themselves the Soviet leaders discriminate heavily against Jews. The evidence is overwhelming and incontrovertible and renewed almost daily by the Russians themselves."

In a joint statement released last summer, three American Jewish organizations denounced the Soviet press for conveying "a viciously negative image of the Jews," and indignantly proclaimed, "Soviet Jews are deprived by official policy of religious and cultural rights * * * and are the victims of discrimination."

Communism and religion—like communism and freedom—can never coexist, for Marxism is unalterably opposed to all forms of religious belief. Lenin acknowledged this fact more than 50 years ago when he exhorted his followers, "We must combat religion—this is the A.B.C. of all materialism, and consequently of Marxism." Then he declared, "The Marxist must be * * * an enemy of religion."

Since the time of Lenin, atheistic communism has surged forth from Russia to enslave nearly one-fourth of the earth's surface and a third of her peoples. Nowhere are its advance battalions more active than in our own Western Hemisphere, where agents trained by the Kremlin continue to burrow deeply into countries of the Caribbean and Central and South America. Their deadly objective is to undermine legitimate governments, foment revolution, and create a Soviet Union of Latin American Republics.

I have said this before and I would like to repeat it here: We are at war with communism and the sooner every red-blooded American realizes this the safer we will be.

Here in the United States, the cause of international communism is represented by the Communist Party, U.S.A.—a cunning and defiant subversive conspiracy which is financed, directed, and controlled by the Kremlin. Its membership consists today of a hard core of revolutionary fanatics who are knowingly and eagerly subservient to the dictates of Moscow. The dupes, the dissidents, and the faint of heart have long since been purged from the party's ranks.

Today, the Communists are engaged in a vigorous campaign to divide and weaken America *from within*. Foremost in this campaign are the party's efforts to exploit misunderstandings and capitalize upon areas of dissension and unrest wherever they exist. This is especially true in the intense civil rights movement, for America's 20 million Negroes and all others engaged in this struggle are a major target for Communist propaganda and subversion.

It would be absurd to suggest that the aspirations of Negroes for equality are Communist inspired. This is demonstrably not true. But what is demonstrable is that some individuals and groups exploit the tension for purposes not confined to the equality of human rights under the Constitution of the United States. The crusade should not become a vehicle for political radicalism or organized violence.

Devotion to race must not supersede devotion to established institutions.

It would be useful if responsible Negro leaders themselves could make it clear to all who follow them that their interest is solely in racial equality.

This Nation was conceived under God and its progress has been under God. There could be no greater disaster for our Nation than that it should deny in any respect, to even the smallest degree, the presence, the power, the guidance, the protection, the instruction of Almighty God.

There is unmistakable evidence of divine guidance all through the history of our Nation. We must guard it. We must cherish it. We must revere it. We must work for it.

The record of our Nation is better than that of any other nation in any other part of the world. It is true there are injustices in this Nation toward those of dark skin, as well as light, but even worse injustices prevail in other parts of the world. Whether the people are black or yellow or brown or white skinned, these things will have to be worked out.

America has taken the lead in working them out, and it is taking the lead today. It is doing more for its underprivileged minorities than any other nation in the world, but there is more to be done.

We thank God that where the spirit of the Lord is, there is liberty.

As citizens of a free country, we must judge people as individuals—not by race, creed, or color.

Legitimate civil rights organizations must remain constantly alert to attempts by the Communists to influence their actions, take over their programs, and corrupt their ranks.

Communism feeds upon ignorance, prejudice, and sickness of the mind and soul. It probes relentlessly for weaknesses in America's moral armor.

That is why the cause of communism is well served by the hatemongers, the lunatic fringe, and other rabble who preach a doctrine of malice and intolerance toward their fellow man.

These venomous fanatics, whether they are extremists of the left or the right, are carriers of a highly infectious disease. They clutter the streets—and the mails—with their slanderous obscenities, urging impressionable teenagers and unstable adults to acts of hate, terror, and intimidation. They have brought forth the bombs and ignited the flames that have killed decent Americans and even innocent children and destroyed churches and other temples of worship. They are a national disgrace.

Invariably, these merchants of hate attempt to drape themselves in a cloak of patriotism. But their real objective is to profiteer and capitalize upon ignorance, prejudice, and bigotry while destroying the very ideals which they claim to uphold.

Today, the Communists continue with impunity to breathe out lies and distortions against the United States. Their designs on American youth revolt and anger those steeped in our national ideals of freedom.

The peddling of their dishonest doctrine to high-minded, largely inexperienced, and basically eager-to-believe young people is not unlike the peddling of filth and dope in demoralizing effect. It can undermine patriotism, create doubts about our social and economic system, and mock the many wholesome youth organizations in this country.

The great majority of American youths are genuinely convinced that they would not fall for the Communist bait. Many never would. But there are others who might never know they were "hooked" until the enormous tragedy of their loss of faith dawned after bitter years of fighting the American way of life, almost unwittingly, as dupes of the Communists.

It has happened to idealistic Americans before.

There is not an avenue to the heart and mind of Americans that is not used to implant their false ideology. Communism cannot be defeated by hysteria and name calling, but it can be defeated by education and living proof that our way of life is best.

The God-given ideals which are responsible for this country's greatness are being attacked on many fronts today. Moral lethargy, self-indulgence, neglect of duty—these lethal forces are undermining many facets of business, labor, industry, and Government.

We find their influence in the repulsive attitude of "half-way Americans" to whom life in this country is the enjoyment of rights and privileges devoid of responsibilities.

We find their influence in those courts of law where the true purpose and intent of our Constitution as a document designed for the protection of society have too often been warped and distorted for the benefit of offenders.

We find their influence in the continuing increase of crime—a tragic national problem which is growing four times as fast as our expanding population.

Crime has no respect for age, nationality, sex, color, or religious creed. It has turned our streets into virtual jungles of terror and fear.

Today, a brutal crime of violence—a murder, forcible rape, or assault to kill—is committed every 3 minutes. The number of these senseless atrocities will continue to grow until men of strong moral conviction assert greater influence toward the prevention of crime and administration of justice.

Disrespect for law and order is a tragic moral sickness which attacks and destroys the American traditions of honesty, integrity and fair play. The moral strength of our Nation has slipped alarmingly. National corruption is the sum total of individual corruption. We must follow the teachings of God if we hope to cure this moral illness.

Law and order are bulwarks on which successful government must stand. Without law and order, society will destroy itself.

Fantasy and weakness have too often prevailed in the administration of justice where strength and realism are essential needs.

There are some misguided social workers and judges who have perverted the meaning of mercy. When so-called mercy aids society's enemies, it is no longer mercy. It is sheer stupidity, if not worse. Justice is needed—stern justice. Without such justice our streets, and our families, will continue to be endangered.

Justice is not served when the innocent victim and society suffer while the vicious criminal goes free.

Oliver Wendell Holmes, Jr., observed: "At the present time in this country there is more danger that criminals will escape justice than that they will be subjected to tyranny."

Judge Learned Hand said: "Our dangers do not lie in too little tenderness to the accused. Our procedure has been always haunted by the ghost of the innocent man convicted. It is an unreal dream. What we need to fear is the archaic formalism and the watery sentiment that obstructs, delays, and defeats the prosecution of crime."

Justice Benjamin N. Cardozo observed: "Justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true."

Let us proceed to try armed robbers as armed robbers. Let the punishment fit the crime and let us "keep the balance true."

Wherever politics and opportunism remain primary considerations in the appointment of jurists, parole officials, and others charged with the administration of justice, the public should have more adequate guarantees for the immediate removal of those who prove by their unjustifiable actions that they cannot be entrusted with the important responsibilities of their offices.

The fact is millions of free Americans are taking our good way of life for granted. They have ceased to care about our foundation stones, the "rock from which we were hewn."

Let us never forget that religion has made us what we are, given us what we have. Every good thing we enjoy as free Americans came directly or indirectly out of our belief in God.

Our best offensive against crime, subversion, intolerance and all enemies of America's heritage of freedom is brotherhood—a brotherhood such as yours, built upon a solid foundation of mutual trust, understanding and faith in God.

There must be a moral reawakening in every home in our land.

History shows us the great accomplishments that can be attained by the combined efforts of selfless men and women who are sincerely dedicated to a noble cause. We have such a cause in America—to dispel intolerance, to preserve the rule of law, to protect and strengthen our God-given ideals and faith in freedom.

Law and public sanctions help to keep our deeds in line—only conscience polices our thoughts. It is much easier to control our actions than our thoughts.

For, "As a man thinketh in his heart so is he."

Two hundred years ago, our Founding Fathers had a vision of a nation where men could live together and worship together without fear. Today, we hold this same vision—the determination that faith, courage and decency will prevail over all enemies of freedom.

Since 1753, when the Liberty Bell first tolled at Independence Hall in Philadelphia, it has borne a solemn Old Testament inscription from Leviticus xxv, verse 10: "Proclaim liberty throughout all the land unto all the inhabitants thereof."

Let us all work together to maintain this great American ideal. With God's divine guidance, let us build an ever more powerful brotherhood of liberty and justice for the benefit of all mankind.

As the Father of our Country so aptly said—"As we declare our loyalty to our country, help us to keep in mind the need of faith in God and immortality without which life is meaningless and vain."

This is our mission as a nation of free people, united in one faith—faith in God.

Mr. SIMPSON. Mr. President, I join in commending to the reading of Senators the article written by Jerry O'Leary, Jr., and published in the Washington Star.

PUBLIC WORKS APPROPRIATION BILL, 1964—GLEN ELDER PROJECT—AMENDMENTS (AMENDMENTS NOS. 343 AND 344)

Mr. PROXMIRE. Mr. President, I submit two amendments, intended to be proposed by me, to House bill 9140, the public works appropriation bill, and ask that they be printed and lie on the table.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that these amendments be printed in the RECORD at this point.

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

On page 11, line 18, change $187,425,000 to $182,425,000 and on page 12, line 5, insert the following: "*Provided*, That none of the funds herein appropriated shall be used for the Glen Elder unit in Kansas."

On page 12, line 5, add the following: ": *Provided further*, That no funds in this bill, for the Glen Elder project shall be used for irrigation purposes".

Mr. PROXMIRE. Mr. President, first I wish briefly to describe these amendments.

The first amendment would eliminate the $5 million to be appropriated under the bill for the so-called Glen Elder project. That is a dual-purpose project, one purpose being to provide flood control in the Kansas City area and the other purpose being to provide irrigation in the vicinity of Glen Elder, Kans., for Kansas farmers.

The first amendment would eliminate the entire project, so far as the appropriation is concerned, at this time.

The second amendment would provide that none of the funds for the project shall be spent for irrigation.

I shall address myself primarily to the second amendment today, though I shall discuss both amendments to some extent.

I wish to make some parliamentary inquiries, and I ask for the attention of the Parliamentarian.

I read the second amendment, which is very short.

On page 12, line 5, add the following:

Provided further, That no funds in this bill for the Glen Elder project shall be used for irrigation purposes.

My parliamentary inquiry is whether or not the amendment is in order.

The PRESIDING OFFICER. The Chair has been advised by the Parliamentarian that the amendment, when offered, will be in order.

Mr. PROXMIRE. I thank the Presiding Officer.

Mr. President, I honestly and frankly submit this amendment with great reluctance. Last year I spoke on the floor of the Senate on this particular project, and I made the longest speech any Senator made in the Senate last year. It was a 10-hour speech. I made it because I felt then that this was the most wasteful project I had ever seen, and I wanted to dramatize how wasteful these projects can be when conceived as this one has been conceived and when based on a totally unrealistic estimate of the discount ratio, which I shall explain in a moment, and of the life of the project, which I shall also explain shortly.

This project is particularly wasteful in view of the fact that the irrigation portion—$17 million of the $76 million project—would be for the prime purpose of bringing more feed grains into production. Thirteen thousand acres of additional land would be brought into the production of feed grains. If there is something which the country needs less than feed grains, I am not familiar with what it is.

We are now spending hundreds of millions of dollars to reduce the supply of feed grains. We are spending more than a billion dollars.

I have a table which shows the estimated total payments under the feed grain program for 1963 to each of the States in the Union; and almost every State including Rhode Island is included. I point out that unless my amendment passes the Public Works Appropriation bill will bring additional land into production of feed grains at a cost of millions of dollars, although Kansas is receiving $44 million for taking land out of the production of feed grains. The total payments in the Nation in 1963 will be $843,842,000 for taking land out of production.

I ask unanimous consent that the table showing the "Estimated Total Payment under the Feed Grain Program for 1963," listing amounts for each State now being expended by the Federal treasury to take land out of the production of feed grains, may be printed in the RECORD at this point.

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

Estimated total payment under the feed grain program for 1963 [1]

[In thousands]

Alabama	$10,364
Arizona	3,242
Arkansas	2,805
California	10,186
Colorado	6,919
Connecticut	85
Delaware	1,479
Florida	3,230
Georgia	11,950
Idaho	1,699
Illinois	87,564
Indiana	53,693
Iowa	121,709
Kansas	44,375
Kentucky	18,378
Louisiana	3,109
Maine	20
Maryland	3,025
Massachusetts	13
Michigan	21,236
Minnesota	54,015
Mississippi	7,696
Missouri	65,424
Montana	1,813
Nebraska	68,138
Nevada	16
New Jersey	2,366
New Mexico	2,838
New York	6,633
North Carolina	20,853
North Dakota	13,742
Ohio	36,730
Oklahoma	9,668
Oregon	2,308
Pennsylvania	8,162
Rhode Island	1

See footnote at end of table.

Estimated total payment under the feed grain program for 1963 [1]—Continued

[In thousands]

South Carolina	$6,018
South Dakota	15,643
Tennessee	14,925
Texas	64,524
Utah	694
Vermont	49
Virginia	6,298
Washington	2,942
West Virginia	733
Wisconsin	26,016
Wyoming	516
Total	843,842

[1] This includes corn, barley, and grain sorghum.

This is only a part of the cost. In the second place, each year we spend a large and increasing amount of money for storage, interest, and transportation costs for the feed grain program.

In 1961 we spent $463 million.

In 1962 we spent $473 million.

In 1963 we spent $475 million.

I ask unanimous consent that a table showing storage and interest costs of feed grain programs be printed in the RECORD at this point.

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

Storage and interest costs of feed grain program

[In millions]

Year	Storage and handling	Transportation	Packing and processing	Reseal storage	Imputed interest	Total
1961	$224.8	$52.9	$0.7	$38.1	$147.4	$463.9
1962	213.5	67.3	3.3	59.5	130.1	473.7
1963	184.0	78.2	.8	66.5	145.8	475.3

Source: Department of Agriculture.

Mr. PROXMIRE. If there is added to the amount being spent for payments of $844 million the amount being paid for storage and interest, the cost of the feed grain program is now $1,319 million a year; think of it: $1⅓ billion.

I submit that it does not make any sense to appropriate millions of dollars to build a dam for the purpose of bringing more feed grains into production.

Even if the feed grain were needed, it would be an unjustifiable and uneconomic investment. But when we do not need them, when from an irrigation standpoint the dam has a zero value—in fact, less than zero, because not only can we not use the feed grains, but we would have to spend money to store them—it is particularly nonsensical.

The project will be urged on the ground that it would help the farmers. Not only would it not help farmers generally throughout the country; it would not even help farmers who are supposed to benefit from having their land irrigated.

We should recognize that no group in America has shared less in our prosperity in the past 10 or 15 years than have the farmers. During that period the farmers have increased their efficiency three times as rapidly as have people off the farm. They have done a fine job of increasing productivity and efficiency. In the past 15 years they have doubled their productivity. Today, one farmer does what two farmers did 15 years ago.

The farmers work long hours. According to the Department of Agriculture statistics, farmers in Wisconsin last June worked 11½ hours a day. They work 7 days a week. They work 52 weeks a year. The cows must be milked. The job always must be done.

Furthermore, the farmer makes an investment. He does not merely bring his own efforts, skill, and energy to the job. He brings those, but he also brings a significant amount of his money. The investment has been increasing greatly. The average farmer in Wisconsin must make an investment in his farm of $35,000 or $40,000.

Throughout the United States there is a tremendous investment in farms.

The farmer takes a bigger risk than perhaps any other large group of people in our economy. In spite of that fact, his income is low. It is shamefully low. The income of our farmers is less than half the income of people off the farm. The hourly income is about one-quarter of that of people off the farm.

Why is it low? The farmer's income is low because of overproduction; because we cannot solve the problem of tailoring farm production to demand; because we find ourselves in a position where the efficiency and the productivity of the farmer is so great that he is drowning under his productivity. The more he produces, either the greater the drain on the taxpayers or the lower his income, or both.

The crux of the farmer's difficulty, the heart of the difficulty, is that there is too much production of farm products. That is why our farm program is designed to take land out of production, to discourage farmers from producing so much. We are spending hundreds of millions of dollars for this purpose. Now we turn around with the other hand, in another bill, the public works bill, and appropriate millions of dollars to bring more land into production to produce the very crops that we are spending so much to take out of production.

It is not as if the situation were going to be better in a few years. The fact is that the situation will become worse in coming years.

We can expect over the next few years to have literally millions of additional acres going back into production as the soil bank contracts expire.

The fact is that in 1963, before this year is through, there will be some 6,800,000 additional acres in production. That means they will be in production or the taxpayer will have to dig into his pocket to pay the farmer to keep that land out of production.

In 1964, the additional acreage will be 3,400,000.

In 1965 it will be 577,323.

In 1966 it will be 2,271,644.

In 1967 it will be 1,691,506.

In 1968 it will be 6,120,064.

In 1969 it will be 3,570,020.

And so on ad infinitum.

I ask unanimous consent that a chart showing estimated reserve acres for which contracts expire each year be printed in the RECORD.

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

TABLE C.—*1956–61 conservation reserve program—Estimated reserve acres for which contracts expire each year, by States* [1]

State	Acres to be released as of Dec. 31										Total acres in reserve	Total number of contracts
	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970		
Northeast area	91,491	49,882	421,945	244,795	4,405	18,500	31,431	236,067	223,942	27,274	1,349,732	27,917
Connecticut	118	36	2,522	717	92	17	108	498	451	3	4,562	190
Delaware	502	122	8,418	2,887	91	336	231	5,149	521		18,257	279
Maine	12,817	9,355	15,141	15,943	198	3,113	9,075	23,868	21,427	10,416	121,353	2,632
Maryland	8,846	3,490	39,669	13,013	266	1,140	1,498	10,207	4,853		82,982	1,467
Massachusetts	111	38	1,081	361	38	31	53	376	588	40	2,717	109
New Hampshire	67	63	1,469	400		147	312	4,390	4,330	314	11,492	437
New Jersey	2,962	1,727	25,130	14,066	33	341	91	1,991	1,913		48,254	1,061
New York	36,009	21,160	127,155	76,760	1,260	7,384	10,417	96,738	107,656	11,938	496,477	9,472
Pennsylvania	20,097	11,009	138,407	82,858	677	2,385	3,656	47,632	53,609	323	360,653	7,163
Rhode Island	19		10	25				8			62	4
Vermont	87	121	3,651	2,789	198	663	1,920	11,651	7,107	4,214	32,401	987
Virginia	8,422	1,806	38,831	22,891	1,187	2,811	1,933	21,671	13,650		113,202	2,355
West Virginia	1,434	955	20,461	12,085	365	132	2,137	11,888	7,837	26	57,320	1,761

See footnotes at end of table.

TABLE C.—*1956–61 conservation reserve program—Estimated reserve acres for which contracts expire each year, by States* [1]—Continued

State	Acres to be released as of Dec. 31										Total acres in reserve	Total number of contracts
	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970		
Southeast area	150,653	114,081	734,749	412,730	6,699	298,727	537,763	1,155,973	780,126	18,976	4,210,477	70,745
Alabama	12,060	5,515	64,141	33,959	387	29,624	50,206	122,783	88,210		406,885	8,279
Arkansas	33,806	28,042	171,382	76,519	1,302	12,070	39,304	150,452	76,806		589,683	9,289
Florida	8,703	3,470	10,772	15,985	253	50,409	28,241	58,418	49,821		226,072	2,162
Georgia	23,211	16,852	83,374	60,652	1,375	109,401	223,926	315,665	220,721	301	1,055,478	14,730
Louisiana	4,707	2,822	46,506	22,092	318	13,875	41,757	59,703	25,509		217,289	3,275
Mississippi	30,488	26,396	108,577	26,659	1,056	17,568	21,184	61,376	24,706	1,528	319,538	5,652
North Carolina	5,488	4,931	61,481	53,362	273	20,453	24,001	67,478	29,804		267,271	7,728
South Carolina	12,676	6,004	46,360	48,383	445	32,123	87,080	196,450	187,581	17,147	634,249	11,754
Tennessee	19,514	20,049	142,156	75,119	1,290	13,204	22,064	123,648	76,968		494,012	7,876
Midwest area	296,132	139,365	2,079,972	1,027,477	11,660	49,628	33,862	678,863	402,519	2,909	4,722,387	70,035
Illinois	13,017	4,414	270,298	85,750	546	2,454	986	43,890	11,896	412	433,663	6,048
Indiana	22,831	6,065	257,796	118,357	1,859	1,458	723	53,186	24,607	69	486,951	7,800
Iowa	60,508	18,669	352,304	159,598	2,275	1,607	1,244	34,263	16,765	158	647,391	7,541
Kentucky	13,901	7,212	164,837	66,532	1,071	1,858	3,196	95,862	31,445		385,914	5,467
Michigan	52,948	23,358	254,267	150,722	1,864	17,249	10,067	93,141	96,613	392	700,621	11,444
Missouri	50,766	50,552	265,884	150,577	1,987	6,703	6,167	209,207	83,043	276	825,162	10,882
Ohio	26,051	9,003	237,407	137,567	905	1,568	1,012	48,190	47,793	107	509,603	8,690
Wisconsin	56,110	20,092	277,179	158,374	1,153	16,731	10,467	101,124	90,357	1,495	733,082	12,163
Northwest area	774,404	521,399	2,144,852	1,184,354	37,182	554,122	409,886	1,955,700	1,289,441	9,571	8,880,911	59,067
Idaho	20,004	8,545	85,696	40,633	1,848	8,844	2,343	78,614	34,862		280,789	1,502
Minnesota	225,629	199,603	506,303	153,502	10,727	231,892	174,140	285,848	93,935	9,509	1,891,088	19,972
Montana	31,496	16,342	140,702	59,405	2,734	17,144	16,958	221,076	122,650	46	628,553	2,031
Nebraska	59,614	25,864	323,621	130,566	2,307	13,559	10,919	221,955	84,692		873,097	7,359
North Dakota	204,060	138,980	495,601	398,803	8,407	200,843	137,886	557,151	558,020		2,699,751	12,280
Oregon	24,457	14,253	75,804	33,015	1,314	11,749	8,427	37,933	23,021	16	229,989	2,229
South Dakota	182,319	95,485	380,893	315,365	5,646	61,239	43,600	417,962	317,286		1,819,795	10,964
Washington	11,019	18,822	106,270	44,500	4,199	3,168	14,082	91,629	40,081		333,770	2,181
Wyoming	15,806	3,505	29,962	9,165		5,684	1,531	43,532	14,894		124,079	549
Southwest area	1,191,937	489,006	1,433,613	551,771	517,377	1,350,667	678,564	2,093,461	873,992		9,180,388	73,241
Arizona	4,846	476	400			1,552	385				7,659	65
California	19,749	9,814	84,529	36,134	2,927	2,552	3,103	30,680	11,336		200,824	1,071
Colorado	104,019	43,979	123,634	26,643	3,192	192,088	95,025	587,812	111,554		1,287,946	4,733
Kansas	80,665	86,954	301,484	102,539	12,990	93,776	113,139	397,763	257,912		1,447,222	12,624
Nevada												
New Mexico	88,425	15,355	13,657	568	250,642	310,756	111,819	72,092	415		863,729	3,496
Oklahoma	167,519	104,159	296,861	141,207	6,166	153,375	98,242	308,558	213,048		1,489,135	16,841
Texas	706,668	220,615	571,820	232,023	240,531	549,013	242,689	628,916	255,594		3,647,869	33,431
Utah	20,046	7,654	41,228	12,657	929	47,555	14,162	67,640	24,133		236,004	980
United States	2,504,617	1,313,733	6,815,131	3,421,127	577,323	2,271,644	1,691,506	6,120,064	3,570,020	58,730	28,343,895	301,005

[1] Report from Data Processing Center of contracts on record as of Dec. 1, 1961. ASCS, Soil Bank Division, Dec. 29, 1961.

Mr. PROXMIRE. Some people argue that by the time the dam is built and more land is brought into production we shall need it.

The fact is that we shall need not more, but less land for production in future years. This assertion takes into account the prospect that there will be a larger population, and that people will eat more. Even if more agricultural products are exported, we shall need less land than we now need.

The reason is obvious to anyone who has studied land chemistry, irrigation, insecticides, and who recognizes the marvels of modern American agriculture. There are many ways in which farmers, by the use of irrigation and fertilizer, can greatly increase productivity.

We shall not need more productive land in the foreseeable future, or during the life of this dam. We shall need less land.

Most Senators have perhaps seen a motion picture, "Bridge on the River Kwai," or, if they have not, perhaps they have read the book. It is one of the most dramatic and beautiful demonstrations of the utter, sheer irony and waste of war that I have ever seen. It was a dramatization of a British regiment which had fallen into the hands of the Japanese soldiers in the southwest Pacific in World War II. The British had superb morale and a leader with great courage and fine leadership qualities. The colonel was disturbed about the possibility that this wonderful regiment, with their fine courage and spirit, might lose their morale. He himself stood up to the toughest kind of torture inflicted by the Japanese. They placed him in circumstances that were cruel and difficult for him, but he was able to stand up to that torture.

The Japanese proposed that, in order to keep the regiment occupied and keep their morale up, they build an extraordinarily complicated and difficult bridge for the Japanese which the Japanese had failed repeatedly to build. The captured British regiment under the colonel's inspired leadership built a magnificent bridge, one that the commanding officer said would last for 600 years. Of course, the irony was that the bridge frustrated the very purpose for which those brave British soldiers had fought and sacrificed and risked their lives to hold back the Japanese military effort, to frustrate and defeat it, not help it. The commanding officer became swept up in the building of that bridge, and had his men working hard and using their genius and effort endlessly day after day in building the bridge. But after the bridge was finished, the Allied forces sent saboteurs to blow up the bridge.

The saboteurs, after terrific trials and tribulations, came to the bridge and ingeniously contrived to blow it up. As they were about to do so, the British colonel, who had devoted so much of his genius and leadership and the efforts of his men to building the bridge suddenly saw them. He saw that they were about to blow up his pride and joy, his magnificent 600-year bridge. He was out of his head with fury. In an instinctive betrayal of his country he called attention of the Japanese to the saboteurs and tried to cut the wires, to keep the bridge from being blown up. The patriots, heroic saboteurs who had come there at great risk on this dangerous mission in behalf of the allied cause, were shot down and killed.

"Bridge on the River Kwai," was a dramatic illustration of what happens when ends are forgotten and how apparently honorable means can violate the ends they only exist to serve. The reason why I give this example is that I believe we have lost sight of the end, the objective of our reclamation program by going into this idiotic and obsolete notion of bringing more land into production.

At the time the project was authorized, back in 1944, we needed more land. We had a shortage of food in the free world, and we were supplying the free world with food for war purposes.

At that time it made some sense. However, today, the last thing on earth we need is more land in production. However, that is what we are doing. This food, when it is produced, will have to go into surplus. We do not need it. Nevertheless, it will be produced, and then put in storage.

What really puts the icing on the cake is the fact that the farmers whose land is to be irrigated do not want the project.

I appeared before the Appropriations Committee in 1962, and again this year against the project. After I appeared in 1962 I expected that the people from Kansas would not be happy about my appearance against the project, and that I would receive some letters protesting my butting my nose into their business. Not so. I received many letters in support of my position. I received sworn affidavits from farmers.

I received affidavits from 90 percent of the farmers in the area who own 85 percent of the land, in opposition to the project. They said they were against it. I have a list of the farmers who are involved. I have their names and addresses. They are the farmers who own the land in this area. In order that there may be no mistake about the fact that the farmers involved do not want the project and are against it, I ask unanimous consent that every name and every address on the list I have here be printed in the RECORD at this point in my remarks.

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

Landowners within the proposed Glen Elder Irrigation District who have registered their objections by petitions to the formation of said irrigation project

Name	Address	Acreage
Floyd Rominger and Thelma Rominger	Glen Elder, Kans.	80
W. L. Fuller and Etta Fuller	do	160
Elwood Harrison and Mary Harrison	do	160
Quentin Kelley and Pauline Kelley	Beloit, Kans.	160
John Bunger, guardian of William and Frederick Bunger, minors.	do	146
William Thiessen and Emma J. Thiessen	do	427
Stewart Barker and Louise L. Barker	do	186¾
Charley V. Vetter and Charlotte Vetter	do	160
Anna J. Olson	Denver, Colo.	318
W. D. Thiessen and Olivene Thiessen	Beloit, Kans.	151
A. C. Remus and Irena Remus	do	154
Effa May Metcalf	do	560
Paul James	do	126
Gerald Smith and Aileen Smith	do	221
W. Earl Porter and Thelma Porter	do	241
Elmer Golladay and Sarah Golladay	Glen Elder, Kans.	466.8
Lena James and M. R. James	Beloit, Kans.	80
Maggie McClintock	do	160
Minnie Thiessen	do	306
Lena James and M. R. James	do	160
Louise Thiessen	do	110
Ellen Davis	Salina, Kans.	384½
Florence L. McKechnie	Glen Elder, Kans.	160
Hamer Williams and Emma C. Williams	Beloit, Kans.	160
Millie Clover	Glen Elder, Kans.	480
Winifred Johnson	Beloit, Kans.	320
Elmer Porter and Christine Porter	do	435
Jay F. Johnson	do	200
Doyle L. Remus and Mrs. Shirley Remus	Glen Elder, Kans.	110
Maxine Reinhardt, R. A. Reinhardt, Elizabeth Dean, and Keith Dean.	do	283
Mrs. Carl A. Porter	Beloit, Kans.	150
Anna R. Thiessen, Carol Thiessen, Marjorie Thiessen Havel, Kenneth D. Havel, Vernon Thiessen, and Anna L. Thiessen.	do	160
William J. Remus and Orpha A. Remus	Glen Elder, Kans.	105
Emma Lund and Frank J. Lund	do	160
Leo H. Eberle	do	280
Mrs. Sylvia E. Vetter and John C. Vetter	Beloit, Kans.	10
Guy Noller	Glen Elder, Kans.	383
Lula Rawlins	Beloit, Kans.	196
Mrs. Ruth Kirgis and George Kirgis	do	398½
Roy A. Fobes and Trella Fobes	do	160
J. A. Muck and May E. Muck	Glen Elder, Kans.	360
Vincent Engelbert and Elizabeth Engelbert	Beloit, Kans.	23
E. D. Metcalf and Mrs. E. D. Metcalf	do	160
Albert McDysan	do	160
Darrell L. Fobes	do	20
Robert Metcalf and Elizabeth Metcalf	do	80
Doyle V. Neifert and Esther G. Neifert	do	160
Elden McCune and Chloe McCune	Glen Elder, Kans.	80
Dean Miller	do	112
Fred Boehner, Laura Boehner, Earl Boehner, and Doris Boehner.	do	5
Davida Simpson and Elmer E. Simpson	do	160
L. L. Humes and Bessie Humes	do	40
George Megli and Bernice Megli	do	80
Sadie M. Gansel and Helene Gansel Wood	Beloit	240
Ferd R. Gansel	Hill City	23
Martha P. Morton	Concordia	
Joe D. Gansel	Beloit	
Joe Hicks, William Hicks, and Virginia Bunger	do	256
H. E. Marquis	Glen Elder	120
Carl Thiessen and William Thiessen	Beloit	150
Eva Irean Grigsby and James W. Grigsby	Jacksonville, Oreg.	160
Verna D. Rawlings and E. B. Rawlings	Santa Clara, Calif.	
W. Earl Porter and Fronia Porter Harned	Beloit	109
Carl Thiessen	do	100
Arnold C. File and Dee Ann File	do	160
A. Graff by Paul T. Graff, agent	do	140
Amos Chapman and Alma Chapman	do	145½
Arnold C. File and Dee Ann File	do	200
Ralph Nicholson and Meredith Nicholson	Glen Elder	80
John Porter	do	80
G. H. Gish and Lacy Gish	do	9
Ralph Nicholson and Meredith Nicholson	do	220
M. E. Gentleman and Ava B. Gentleman	do	262
Gerald Farr	Beloit	160
Ora Porter	do	160
Frank T. Nash and Marcy T. Nash	Glen Elder	425
Nash estate by Frank T. Nash, administrator	do	300
Mrs. Clara Rominger	do	160
Merle L. Campbell	Topeka	37
Seth F. Wilson	Asherville	199
Alfred Emmot and Carrie Emmot	Beloit	80
Duane K. Stilley	Seabrook, Tex.	600
Vera M. Cruse and Floid E. Cruse	Farragut, Iowa	
Louis E. Stilley	Fort Worth, Tex.	
T. Boyd Hull	Beloit	389
Mrs. Ross Strawn	do	178
Nick A. Ernzen	do	254
Lola Remus, Mary Virginia Remus, Kim Remus, Twila V. Remus, and John B. Kruse.	do	160
Kenneth Wendell and Lucile K. Wendell	do	47
John H. Matheis	do	345½
Charlotte File	do	80
Mrs. Anna Jones	Wichita, Kans.	160
Susan File	Beloit	235
Donald Dooley	do	160
John C. Vonderheide, Rose Vonderheide, Katherine Vonderheide, and William Vonderheide.	do	280
Lucy A. Brackett	do	95
Mary E. Stover, agent	do	160
Seth F. Wilson and Theron Wilson	Asherville	135
Lawrence Briney	Beloit	20
Wilbur W. Kent	do	137
Harry R. James and Margaret M. James	do	160
Robert Vernon, Betty Jean Vernon, and Mrs. Effie J. Vernon.	Simpson	280
Bon Duff	Beloit	160
Joe McClure	Simpson	160
Mrs. May Vernon	do	160
Thomas L. Carlin	Beloit	120
Joe Krone	do	42
Edgar T. Pierce and Hazel Pierce	do	79
Mrs. Ella C. Wagner	do	153
Irma Schellinger	do	88½
Daisy E. Guard	do	122
Everett M. Burkhead, Ethel Wolverton, and Doris Lieurance.	do	109
Gertrude E. Burnette and William Burnette	Asherville	152
Chas File	Beloit	359
Otto E. Lange and Mary L. Lange	Asherville	226
Marietta Stilley	Beloit	80
Viola E. Pearce	do	126
Frances Heinen	do	302
R. J. Fittell and Cora B. Fittell	do	148½
Lola Remus	do	388
Mrs. Ethel Burnette	do	160
Jess Dameron	do	67
Regina M. Hodler	do	215
John A. Heller and Rose D. Heller	do	146
Leonard J. Heller	do	69½
William T. Heller	do	80
Robert N. Sherrard	do	178
Duane E. File	do	160
Susagnes Heller Schwerman	do	79
Irene Hyde Miller	do	120
Louise Hyde Dooley	do	420
Elizabeth Myers	do	80
Vernon Thiessen and Anna L. Thiessen	do	200
Wilfred J. Wendell	do	187
Thomas S. Hyde	do	240
Elizabeth Schwerman	do	241
Miles E. File	do	480
Melvin C. File and Mrs. Melvin C. File	do	120
Earl File and Telva File	do	583
Mrs. Lena M. Roberts	do	307
V. R. Schmidt and Katherine M. Schmidt	do	160
Dan G. Wood and Helene K. Wood	do	200
Robert Wagner and Margaret Wagner	do	80
Do	do	106
C. E. Plymire, by Lois Plymire Pruitt, guardian	do	120
Margaret Anderson and Edwin Davis	Glen Elder	10
Mrs. N. L. Davis	do	120
Albert L. Davis	do	40
Rex Borgen	Asherville	160
Mrs. Melva McClintock	do	240
Frank O. Pearson	Simpson	123
C. A. Robertson and Mrs. C. A. Robertson	do	240
Mrs. Thelma Spicher	do	320
James Robertson	do	239
Marie Niehaus	Beloit	81
Eugene File	do	94
Charles Pearson	Simpson	208½
Harrell Guard, Sr.	Asherville	160
Beatrice Childs	Simpson	425
Total		28,603½

Cloud County landowners registering objection by petitions to formation of Glen Elder irrigation project

Name	Address	Acreage
W. A. Adams	Glasco, Kans.	240
Mabel A. Childs and C. R. Childs	Delphos, Kans.	80
Do	do	195
T. M. Butler	Glasco, Kans.	340
Walter Sheets and May Sheets	do	200
Florence Gray Bundy	do	40
Mrs. Howard Courtney and H. L. Courtney	do	170
Wesley Fuller	do	160
Emery Yenni and Maxine Yenni	do	640
Lawrence Sheets and Eva Sheets	do	697
Joe Sheets	Concordia, Kans.	304
Peter H. Beck and Maude C. Beck	Glasco, Kans.	160
Willis Beck	do	204
Leona Smith (Cyrier) McKemey	Jamestown, Kans.	74
John V. Downey	Glasco, Kans.	160
Joe Downey	do	320
Ada J. Orebaugh	do	551
Leslie O. Wealand and Elsie L. Wealand	do	80
William K. Dopp	do	100
Sarah E. Dopp	do	11
Hattie M. Nowels	do	153
Arden E. Halderson and Orville Halderson	do	160
Boyd Chapman and Mrs. Boyd Chapman	do	9
Blanche Teasley and Dale Teasley	do	4.49
Claude Orebaugh	do	10
Max D. Martin and Lorene Brown Martin	do	345
Mrs. Mary Ellen Lott	do	80
Jess M. Dalrymple and Evelyn H. Dalrymple	do	150
J. M. Davidson	do	900
Mrs. Clara Pinkall	do	160
Earl E. Keller	Clyde, Kans.	360
Mrs. R. L. Brock and John R. Brock	Glasco, Kans.	396.05
Walter Butler and Bertha Butler	do	448
John R. Brock	do	454.07
Martin E. Butler	do	320
Virginia L. Steinbrock	do	220
Ray H. Fetters	Manhattan, Kans.	
Celestine Louthan and Robert Louthan	Simpson, Kans.	320
Robert Louthan, Celestine Louthan, Frank Louthan, Mrs. Frank Louthan, James R. Louthan, John E. Evert, Mrs. Etta Evert; Herman Evert, and Mrs. Emeline Evert.	do	400
Clint Evert	do	12
Jean M. Noel, Elizabeth L. Chestnut, and Robert Chestnut.	Glasco, Kans.	267
Chas. Gehrke, Ida Gehrke, Duane Gehrke, and Carol Gehrke.	do	480
George E. Bond, Mrs. George E. Bond, and Catherine Bond.	do	1
Sophia C. Horn, Marie G. Horn, Eleanor H. Thompson, and Letha J. Horn, by Sophia C. Horn, attorney in fact.	do	160
Homer Hoffman and Elizabeth Hoffman	Simpson, Kans.	80
Margaret C. Gruenthal	Glasco, Kans.	106
Elmer Halderson	do	480
Henry Prochaska and Mrs. Henry Prochaska	do	160
Emma E. Chapman	do	413
George M. Chapman	Beloit, Kans.	
Total		11,810.61

Ottawa County landowners registering objection by petitions to formation of Glen Elder irrigation project

Name	Address	Acreage
Mrs. Caroline Atwell McKain	Manhattan, Kans.	160
Alva F. Adams	Delphos, Kans.	70
Christina Hurtig	do	160
John Nelson, Sr.	do	1,341
Harold C. Hollis	do	160
Avis Taylor and Earl G. Taylor	do	308
Avis Taylor and Ellis Paramore	do	320
J. M. Hart	do	20
Allen L. Atwell	do	204
B. M. Halderson	do	439
Fred L. Jilka	do	160
Lawrence J. Hart and Mary A. Hart	do	357
Leo Allison	do	160
Charles E. Parks	do	250
Mrs. Neva Wilkins	do	161
John R. Nelson	Delphos, Kans.	160
Minnie G. Wealand	Glasco, Kans.	80
Clara Latham	Delphos, Kans.	79
Alma Atwell and Guy Sumerll	do	202.5
Grace M. Narns and Nellie C. Burger	Kansas City, Mo.	
Theodore Paramore, Corliss Paramore, and Ellis Paramore.	Delphos, Kans.	868
Larry C. Atwell	Tucson, Ariz.	160
Clyde Smith	Ottawa, Kans.	374
Burton Smith	Delphos, Kans.	323
Robert Mortimer	do	372.5
Laura Olson, Anna Olson, and Mary Olson	Glasco, Kans.	100
W. A. Adams	do	160
Total		7,149

Mr. PROXMIRE. Mr. President, these farmers are opposed to the project. They were not satisfied or won over last year when the Senate appropriated planning money, even though it was a relatively small amount—about a million dollars or so; they are still fighting it. These farmers do not want the project. They are still against it. They are spending their hard-earned money to send spokesmen to Washington to oppose the project. They have appeared before the Appropriations Committee. They are incensed about it. They are good, patriotic citizens, who are looking at the project from their own standpoint. They say this project is bad for them. They say it will not work. They say they will not use the irrigation that is to be provided. They are opposed to it for many reasons. They do not want it.

It seems to me that when the Senate is considering a bill in connection with which the only beneficiaries of the bill are against it, we should pay some attention to that opposition. After all, who else could benefit from the irrigation aspect of this program but the farmers who own the land? The farmers have said they do not want the project. They have petitioned this Senator and have told him that they do not want it. They have signed affidavits to that effect.

Under the circumstances, the Senate should not appropriate the money for that purpose.

Mr. President, the entire irrigation justification of the project is based on the value of additional farm crops. If the farm crops are valued at zero, the irrigational investment brings a zero return. As I tried to emphasize, the value is less than zero so far as the taxpayers are concerned, because all of the additional production of feed grain can go nowhere else but into storage. When it goes into storage there will be the additional cost of the storage on the taxpayer; also the interest and the cost of transportation on the taxpayer. We shall have to pay that additional cost. Can anyone honestly appraise additional feed grains as worth anything to our economy? The original estimate of $17 million for the costs of the irrigation aspect of the project would not only yield no return, but would add a multimillion dollar additional dollar burden.

What is it costing to bring these worse than worthless acres into production per acre?

We have made some calculations. It is not easy to make such calculations, because they involve complex discount factors, as well as other factors. One must use very careful arithmetic to make accurate calculations.

The total construction cost is estimated at $17 million. That represents a cost of $810 an acre.

The amount repaid by irrigators is $4 million. That is without interest. That represents a cost of $191 per acre. That is over a 50-year period. We can calculate the interest by determining the average balance, which would be $2 million, and then applying the interest rate factor to it.

In addition, $13 million would be repaid by power users after 100 years are up.

This is about as fantastic a conception as anyone can imagine.

It is wholly unjust, because not 1 kilowatt of energy will be used. We are assuming that the power users will repay it. Under the law they will be required to repay it after a hundred years. They will have to repay this amount in higher rates.

The chances are that the overwhelming majority will not realize that they are paying it, but they will have to repay it. However, they will not receive any benefits. The difficulty is that the interest factor is not considered, and that the Federal Government does not get money for nothing. It must pay interest on the money. The Federal Government must pay for the money. It must borrow the money and pay interest on it. That means that if we multiply 50 years by $80,000, which is the average annual interest at 4 percent—and that is what the Federal Government will have to pay, on the average—the interest amounts to $4 million.

Then, 100 years times $520,000—that is 4 percent on $13 million—is $52 million, or a total of $56 million with a per acre cost of $2,700.

That much money, 100 years from now, or even 50 years from now, is involved, but that will not be worth as much as it is today. We must use the present value, and that figure must be discounted. If we provide a 2.5-percent discount factor, which is the factor that is used by the Bureau of Reclamation and the Corps of Army Engineers—and apply it to $80,000 for 50 years, the amount is $2,269,000. $520,000 for 100 years, applying the same discount factor, amounts to $12,742,000.

The present discounted value total is $15,011,000, not $56 million.

The acreage cost is not $2,700, but much less. If we apply the 4-percent discount factor, it is $20,619,000, instead of $15,011,000. The per acre cost is $982.

I shall not detain the Senate further. I ask unanimous consent to put a table showing these costs per acre in the RECORD, because I believe anyone who is interested in determining whether my calculations are accurate should have an opportunity to do so.

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

Aggregate and per acre costs of the Glen Elder irrigation project with and without imputed interest

	Aggregate	Per acre
Cost without interest:		
Total construction cost	$17,000,000	$810
Amount repaid by irrigators	4,000,000	191
Amount repaid by power users	13,000,000	619
Different estimates of related interest cost (4 percent interest rate in all cases):		
Total over the years:		
50 years × $80,000 (average)	4,000,000	------
100 years × $520,000	52,000,000	------
	56,000,000	2,700
Present discounted value of interest:		
2.5 percent discount factor:		
$80,000 for 50 years	2,269,000	------
$520,000 for 100 years	12,742,000	------
	15,011,000	738
4 percent discount factor:		
$80,000 for 50 years	1,580,000	------
$520,000 for 100 years	19,039,000	------
	20,619,000	982
Total cost: Present construction cost plus present discounted value of imputed interest:		
2.5 percent discount factor	----------	1,548
4 percent discount factor	----------	1,792

Mr. PROXMIRE. On this basis, I think it is completely fair—and this was checked carefully with mathematicians and experts of the Bureau of Reclamation—to say that the cost per acre would be between $1,500 and $1,792. That is the cost per acre for worthless land. This land is worth nothing. It is acreage producing feed grain; and feed grain has no value; it is surplus.

Think of it: $1,500 to $1,800 per acre. The best farmland in Wisconsin is worth $800 or less. Yet unless my amendment passes we spend $1,500 to $1,800 per acre.

Last year in my speech in the Senate, I described the way in which the total irrigation cost of $17 million was divided among irrigators, power users in the Missouri River Valley, and general taxpayers. This table, entitled "Calculation of the Subsidy From the Public to the Irrigating Farmers on the Glen Elder Unit," shows how the total cost is allocated. Two and one-half percent and 4 percent discount factors are applied to the total estimate.

Mr. President, I ask unanimous consent that the table be printed at this point in the RECORD.

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

Calculation of the subsidy from the public to the irrigating farmers on the Glen Elder unit

[In millions]

	Total payment, ignoring interest	Present discounted value at following discount factors	
		2.5 percent	4 percent
Payment by irrigators [1]	$4.000	$2.269	$1.581
Payment by power users in the Missouri River Basin [2]	13.000	1.100	.260
Payment by the general taxpayer	----------	13.630	15.162
Total repayment of the reimbursable costs of the irrigation project	17.000	17.000	17.000

[1] Payment by the irrigators is on the basis of $80,000 annual payments for a 50-year repayment period.

[2] The payment by the power users is assumed to be made in the year 2060 when the power features of the Missouri River project will be repaid, along with the other existing irrigation projects, which will then permit the annual net income of the power features of the Missouri River Basin project to be used for the Glen Elder project. Lump-sum payment is assumed, since the annual net income from the power features will be large enough for this once it becomes available.

Mr. PROXMIRE. The table shows that over the years the burden on the general taxpayer—not the irrigator whose farm is proposed to be irrigated and who would get some benefit from it; not the power user, on whom is imposed a burden, although he gets no benefit—but the general taxpayer in Hawaii, Wisconsin, Texas, and throughout the Nation, will be between $13.6 million and $15 million for a $17 million project. In other words, the general taxpayer would be paying most of the cost of the project.

We hear, over and over again, when we dispute reclamation projects, that they are fully repayable; that the taxpayers do not have to worry about them, because the irrigators will pay the money back, or the power users will pay it back.

If we recognize what interest rates are today, if we recognize the way in which the payments will be made, the real burden is in fact on the general taxpayer. The general taxpayer will bear about 75 to 90 percent of the burden. It cannot be argued that this money will be paid back; it will not be paid back.

One of the primary benefits to which the proponents of the project point is supposed to be the irrigation storage return. Of the annual benefits of slightly more than $3 million anticipated from this project, $564,700 annually is anticipated as a result of irrigation. However, more than 80 percent of the landowners living below Glen Elder in the area that logically would be in the irrigation district have signed notarized petitions that they do not wish to join an irrigation district. I do not want this statement to be confused with the fact that 90 percent of the landowners have signed affidavits that they sent to me, indicating that they are opposed to the project. In addition, 80 percent of the landowners have said that they will not join any irrigation districts; they will not permit their land to be irrigated; they will not have anything to do with the project. These 383 landowners control 49,795 acres in the valley just below the proposed irrigation dam. In view of this, water storage for irrigation would be completely useless. The expense of acquiring additional land for this storage would be wasteful.

This is another reason why my amendment, which the Parliamentarian has indicated will be in order, makes sense. The money should not be spent for irrigation, not only because of the argument I have made that additional feed grains are not needed, but also because the landowners have indicated that they will not join any irrigation district and will not permit their land to be irrigated.

The proposed dam would cover Waconda Springs, a mineral water spring. Thus the water in the lake would be of questionable value either for irrigation or for a multiple water supply. Moreover, the land below the proposed dam is not suitable for irrigation. It develops into a tight so-called gumbo soil that is not conducive to immediate water absorption.

One of the astonishing things about this $76 million project is the mystery surrounding its authorization. The project now is to cost $76,131,000. We shall be asked to appropriate, in the bill which will come up on Monday, $5 million to begin construction. Of course, after that it will be undoubtedly too late to do anything about this scandalous waste. A year ago, the total cost was estimated at $60 million, when I first spoke on the subject. The amount has increased by $16 million in the past year.

Yet the sole congressional authorization for this project is one line in a 1944 act—an act 19 years old—which contained more than 300 projects. This project appeared in the so-called Pick-Sloan Authorization Act of 1944. Moreover, as listed in that wartime omnibus act, the project differed almost completely from the current proposal. The only carryover is the name and apparently the authorization.

One of the great problems that confronts President Johnson in keeping the budget down is the number of built-in increases in the budget. That is always a terrible problem for the President and Congress when they want to economize. How can they economize when Congress, by law, has built in provisions for money that must be spent in the future?

That is what is occurring in connection with this project. We shall be spending $5 million now, but guaran-

teeing that if President Johnson or some other President in the future wants to cut spending, he will not be in a position to do so, because Congress is forcing spending on the President.

I have tried to indicate that the Glen Elder project is as worthless and unjustified as can be conceived. Furthermore, to show the difference in the project, in 1944, when it was authorized—and that was the only time it was authorized—Glen Elder Dam was to have cost $17 million and would have provided 300,000 acre-feet of storage capacity. Today the same project is to cost $76 million and is estimated to provide probably more than 1 million acre-feet of storage capacity.

The Pick-Sloan authorization was open ended; that is, the projects could be initiated at any time. The $17 million listed for Glen Elder was merely an estimate in the committee report and was not included in the bill. That kind of authorization contains great dangers and very little protection for the taxpayer. Once a small amount has been authorized, it can be expended in any way desired and the amount can go as high as is desired; the sky is the limit.

Some 300 projects were originally described in the 1944 legislation. Only about 40 have been initiated to date.

The original authorization permitted appropriations of about $200 million; but based on the original estimate, the cost of all projects was to have been about $1 billion. The authorized appropriations have been gradually increased from time to time. For example, the last increase, of roughly $100 million for fiscal years 1964 and 1965, was in the Public Works authorization bill just passed, H.R. 8667. The total estimated cost of all the original projects in the 1944 legislation is now about $3 billion. In other words, the amount has expanded threefold.

As Senators know, the Senate approves projects, by and large, on the benefit-cost principle. That is, if the benefits exceed the cost, the Senate is likely to go ahead with the project. If the benefits are less than the cost, I do not know of any project that has been passed. There may have been one or two in the past. Theoretically, such a project could be passed. But under such circumstances, Senators usually say that such a project is not worth the money; that arithmetic proves the project is not worth the cost, so the Senate does not proceed with it.

In the case of Glen Elder, the benefit-cost ratio is currently 1.34 to 1. This is a quite feeble benefit-cost ratio.

Admittedly, some are less, but this is low. A ratio of 1.34 to 1 would suggest that the benefits, as computed by the Bureau of Reclamation, are slightly in excess of the costs of the project. However, the assumptions used in computing the benefits are extremely artificial.

The discount rate which has been applied to obtain a ratio of 1.34 to 1 is 2½ percent. This is about as artificially unrealistic an assumption as one could make.

The interest rate now being used for benefit-cost ratios has been increased in recent months. It is currently 2⅞ percent for new projects and, I understand, will shortly be raised to 3 percent. However, no attempt has been made to revise the benefit-cost ratio for existing projects such as Glen Elder.

A low interest rate is absolutely crucial, to justify this project. The more the money costs, the more one has to pay to borrow, and the more benefits one expects to receive. Therefore, the lower the discount or interest rate, the less one can assume he has to pay for the money, the easier it is to justify the project, because the less the benefits have to be.

The interest discount rate in this case should be, at a minimum, 4 percent, because the Federal Government borrows money at 4 percent. The lowest prime commercial rate today is about 4 percent. On this basis, the benefit-cost ratio from this factor alone would fall to 0.9 to 1.

In other words, if we assume a 4 percent interest rate, the benefits would be exceeded by the cost, so the project would be unprofitable to the Government, and would be ridiculous to undertake. In fact, on any basis, even if we give the benefit of the doubt to the alleged irrigation benefits and if we assume that the feed grains thus brought into production would be worth the alleged price—although we know they would be worth nothing—it is clear that this project is unjustified. It is apparent that the ridiculous, inaccurate, and dishonest—and I use carefully and accurately the word "dishonest"—2½-percent rate must be used if the project is to be justified. But, Mr. President, even that is not enough; even then, it is necessary to assume that the proposed project would have a life, not of 25 or 35 years, but of 100 years—a most unrealistic assumption. A projected life of 25 or 35 years might seem fairly reasonable and logical in view of changing technological methods and changing farming and irrigation projects and the possibility of making breakthroughs with flood control and the use of water and in supplying the need for water, and in view of the fact that certain water studies are now being undertaken for the first time. Therefore, one might believe that a projected life of 25 or 35 years would be fairly realistic. However, the life of the project which has been assumed in this case is the fantastic one of 100 years, which is entirely unreasonable.

Furthermore, if we assume a 4-percent interest rate and a 50-year life, which still would be extremely favorable in the case of Glen Elder, the benefit-cost ratio would be only 0.8 to 1. In other words, on the basis of this more reasonable assumption, we would be getting 80 cents worth of service for every dollar spent on the project; but that is in direct and arithmetically provable contrast to the very welcome assurance given by President Johnson that he expects a dollar's worth of services to be provided for each dollar of taxes spent.

But in this case, only 80 cents worth of services would be obtained for each dollar of taxes spent on the project—and then only on the basis that the feed grains thus brought into production would be worth something, whereas, as I have already stated, they would be worth less than nothing at all.

Furthermore, Mr. President, this project, if actually constructed, would essentially—essentially, not eventually—destroy the city of Downs, Kans. The people of that city would have to abandon their homes, shops, and stores, because the reservoir which would be created by the project would inundate the city, unless a very substantial dike or wall were built virtually completely around the entire community; and even if that were to be done, who would wish to live behind such a wall?

Furthermore, Mr. President, the costs of the project, now estimated at more than $76 million, do not take into account the probable cost of condemning the city of Downs, which would be at least $2 million more than is now contemplated.

It is said that the people of Downs are a little "sticky" in regard to making arrangements for this project. Of course it is not difficult to understand why that would be the case.

In addition, the railroad there probably would have to be moved, at an estimated cost of approximately $5 million; but that additional cost is not included in the cost figures which have been submitted.

Of course all these additional costs would further reduce the alleged benefit-cost ratio, which—without including these additional costs—I charge should be assessed at 8 to 1.

As the previously mentioned table shows, the general taxpayers all over the country will pay between three-fourths and seven-eighths of the cost of this project. Essentially, this means a redistribution of income from taxpayers generally to a specific area in the State of Kansas. Although I recognize the meritorious character of the citizens of Kansas, I question whether Senators should vote to require their constituents—throughout the country—to pay some of their taxes to the residents of the State of Kansas, and especially when the Kansans who would be directly affected have emphatically shown that they do not want the project constructed. In that connection, I placed in the RECORD today the names and addresses of those who say they do not want the project constructed, and they are the only ones who could benefit from it and they are the ones whose farms would be irrigated. However, they have testified overwhelmingly that they do not want it.

Mr. President, I summarize as follows:

The proposed $76 million cost includes $17 million for irrigation. However, that irrigation would be of value only if it brought additional feed grains into production. On the other hand, we now have approximately $3 billion worth—$3,000 million—worth of feed grains which are in surplus supply, and we are spending approximately $1,300 million both in payments to keep land out of production and in payments for storage of the feed grains. Yet, as I have said, $17 million of the total amount for this project—which, according to the Bureau of Reclamation, is divisible, and the $17 million can be taken off—would be for

the exclusive purpose of bringing into production land on which more corn, rye, and other feed grains could be produced. But 90 percent of the farmers in the Solomon River Valley who allegedly would benefit from the project are opposed to it, and they own 85 percent of the land involved. In addition, 80 percent of the farmers in that area have signed petitions—and their signatures to them have been notarized—to the effect that they would not join any irrigation district which would irrigate their land.

In any case, Mr. President, if such an irrigation district were established, the result would be to increase the size of our surpluses of feed grains, as I have already documented and detailed.

As I have stated, the overall cost-benefit ratio is alleged to be 0.80 to 1, even if we assume that the feed grains would be worth something, although actually they would be worthless.

Finally, Mr. President, the project is improperly authorized. Neither the Committee on Interior and Insular Affairs nor the Public Works Committee of either the House of Representatives or the Senate has ever considered the project in any detail. The only previous reference to it was a single line in the 1944 omnibus Pick-Sloan authorization, where the project is listed along with 325 other projects. Since that time, however, the cost of the project has more than tripled, and has now gone up to $75 million.

Furthermore, if it is desired to reduce flood losses in Kansas, it would be more efficient to build some of the alternative flood control projects which have much higher benefit-cost ratios. Such alternative projects would make much more sense.

This project, however, would affect only a small percent of the water that now flows into the area subject to flood losses. Furthermore, it is approximately 200 miles away from the main site to be protected. So in my opinion it makes no sense to state that this project would be the most efficient way to accomplish a flood control project.

Mr. President, on Monday I expect to call up both of these amendments; and I hope the Senate will support me in my effort to save $76 million for the taxpayers of the United States.

I yield the floor.

GRAVITY OF COTTON AND TEXTILE PROBLEM

Mr. TALMADGE. Mr. President, we are all acutely aware of the gravity of the cotton and textile problem.

We know the seriousness of it from our cotton farmers who struggle against overwhelming odds to eke out an existence in the production of this commodity which once was king in my region of the Nation, but which now has been virtually banished.

We know how critical the problem is when we see hundreds of textile mills closing down, throwing thousands out of work, or converting to synthetics, because they are unable to compete in world markets at world prices.

Why is this so? It is because of the inequitable two-price cotton system which allows foreign mills to buy U.S. cotton and to manufacture textile products much cheaper than can our own mills in this country.

Furthermore, we know from the taxpayers that our cotton program is long overdue for an overhaul. Our present cotton subsidy program costs about $1 billion a year, and only relatively few benefit from it.

Because the Government is engaged in such extraneous activities as buying, storing, transporting, selling, and giving away cotton, we see an annual public outlay of more than a billion dollars, including subsidies and carrying charges.

This, then, is our present cotton program and, Mr. President, I submit that it makes absolutely no sense at all.

How much longer are we going to permit this situation to exist?

How much longer are we going to ignore this problem?

Piecemeal or stopgap legislation is not the answer. Nor is a new subsidy-upon-a-subsidy program.

Mr. President, a fresh approach is needed, and anything short of a complete revision of the present program will only compound the problem.

I submit without fear of contradiction by textile manufacturers or farmers who want to get back in the business of free and competitive cotton production, that the compensatory payment plan as embodied in the Talmadge-Humphrey cotton bill is the most sensible and economical solution to this dilemma.

The Talmadge-Humphrey bill would do away with existing subsidies, thus eliminating the two-price cotton system, take the Government out of the business of buying, storing, transporting, selling, and giving away cotton, revitalize our textile industry, and help those cotton farmers who most need assistance.

I urge the Senate to give close attention to the ailments of the cotton industry, and prescribe what I believe to be the only cure.

I have had occasion to read an editorial published in today's Wall Street Journal, entitled "Logic." I ask unanimous consent to have the editorial printed in the RECORD.

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

[From the Wall Street Journal, Dec. 6, 1963]

LOGIC

Problem: High price supports for growers price American cotton out of world markets.

Answer: Subsidize exporters so they can compete on the world market.

Problem: Foreign mills buy U.S. cotton at the subsidized export rate, make it into goods and sell them in this country, while U.S. mills have to pay the higher price-propped domestic rate.

Answer: Subsidize the U.S. mills by the somewhat oblique device of subsidizing cotton brokers. (The House has just voted to do just that.)

Problem: The foreigners might not like it.

Possible answer: Subsidize them. (We wouldn't be surprised; the United States already subsidizes practically everything on earth.)

Problem: What about the American consumer who gets triply or quadruply stung by this ferocious political logic?

Answer: Who cares? He doesn't have a lobby.

Mr. TALMADGE. Mr. President, I also wish to call attention to an editorial entitled, "The Sad Cotton Dilemma," and a news analysis entitled, "Huge Textile Interests Wait Cotton Decision," both published in the Atlanta Journal of December 4, 1963, which point out the need for a new program.

I ask unanimous consent to have both the editorial and the article printed in the RECORD.

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

[From the Atlanta Journal, Dec. 4, 1963]

THE SAD COTTON DILEMMA

Sentiment for the cotton bill now before Congress seems lukewarm at best and it would be our guess that this lack of enthusiasm extends even to many of the textile manufacturers it is designed to help.

Most of those who vote for it probably will be doing so only because they reason it's all they have and consider it better than nothing.

But why should they be forced into such a predicament when there were other bills, notably that of Senator TALMADGE, that would have come a lot closer to offering a fair solution to the cotton problem?

The bill which made it to the floor of Congress embodies Government subsidy for the textile industry. It's the contention of one opponent of the proposal that 34 textile mills would get 70 percent of the $292 million in subsidy payments, with one firm alone receiving $28 million.

Yet traditionally such large industrial enterprises have been violently opposed to Federal handouts. Once they get on the receiving end how can they maintain such a stance?

Still there is the contention that unless something is done to permit American mills to buy American cotton as cheaply as it can be purchased abroad, there's real uncertainty as to whether our mills can survive.

That's the impasse. It's a shame that more acceptable plans had to be sidetracked to make way for one that elicits such a mediocre response.

[From the Atlanta Journal, Dec. 4, 1963]

HUGE TEXTILE INTERESTS WAIT COTTON DECISION

Congress has got down to basics on the big cotton controversy of 1963, the hassle over what to do with the so-called two-price cotton system.

What Congress finally does will have an impact in Georgia's huge textile interests—from the farmer growing the cotton to the millowner weaving it into cloth. The taxpayer is also interested.

Georgia supplied more than one-tenth of the Nation's cotton in 1930. In 1961 the State supplied only 3.5 percent. Only about half of Georgia's cotton farmers actually planted any cotton last year.

The trouble in Georgia and the Nation, Congressmen have charged, is the present cotton subsidy program which costs about $1 billion a year.

Since 1956 the Federal Government has subsidized the export of cotton. The Government has paid 8.5 cents per pound on cotton shipped out of the Nation to bring its price down to 24 cents, the going world rate.

Domestic textile manufacturers have chafed under this system since shortly after

it was started and late in 1962 began a major program to do away with it.

The mills claim the system is unfair.

Textile representatives have testified before congressional committees that foreign textile manufacturers can buy the U.S. cotton at 24 cents, ship it to their countries for processing and back to the United States and undersell cloth made in this country.

This has not been disputed. Neither has it been disputed that the price difference on labor is much greater than on the price of the cotton.

The mills have asked the Government to do away with the price differential and provide payment of 8.5 cents per pound on cotton bought in this country for use here. Representative HAROLD D. COOLEY, of North Carolina, has introduced a bill which would do just that.

American cotton sold during the last marketing year for 32.47 cents a pound. Domestic consumption of cotton last year was 8.2 million bales.

Of the cotton exported, only 650,000 bales came back into the country as textile goods. This amount, which is 8 percent of the total national consumption is the effective competition which spurred the U.S. textile industry to seek 8.5 cents per pound on its full 8.2 million bales.

This would cost the taxpayer an estimated $367 million.

Textile interests have maintained the cost would be returned twice in savings to the American consumer since raw material costs have traditionally directly affected the cost of finished goods at a 2-to-1 ratio.

Dissent comes from Senator HERMAN TALMADGE, who has introduced a bill in the Senate doing away with the entire present system and substituting a different concept.

Senator TALMADGE would let the Agriculture Department determine the amount of cotton each farmer could grow in numbers of bales instead of numbers of acres as now done.

In addition, the Talmadge proposal would allow farmers to grow more cotton than the Department allotted. All cotton would be sold at the world price.

Farmers, under TALMADGE's plan, would receive a Government subsidy only on cotton grown under the allotment amount. This cotton would be available, to domestic consumers, at the world price. No subsidy would be paid for cotton grown in excess of the allotment.

The House received Representative COOLEY's bill Tuesday and it was thought possible it might reach an early vote.

Backers of the Cooley bill reportedly were having difficulty in getting support to guarantee passage. Virtually all Congressmen from cotton States are convinced the textile industry is in bad shape and urge some kind of program quickly.

Senator TALMADGE said in introducing the bill the cotton textile industry "cannot much longer endure unless the Congress takes action to restore American cotton and American textiles to a competitive position in the marketplace of the world."

Senator TALMADGE said the Cooley proposal is not the answer because it would add to the costs of the already burdened American taxpayer.

Mr. TALMADGE. 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. MANSFIELD. Mr. President, I ask unanimous consent that further proceedings under the quorum call may be dispensed with.

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

LILA EVERTS WEBER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate may set aside temporarily the pending motion to proceed to the consideration of Senate Concurrent Resolution 1 and turn to the consideration of Calendar No. 602.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana?

Mr. CLARK. Mr. President——

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. MANSFIELD. If I may continue—which has been held up until the distinguished Senator from Iowa [Mr. MILLER] clarified some points which were of interest to him on this particular bill.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana?

Mr. CLARK. Mr. President, reserving the right to object—and I shall not object—with the permission of the majority leader I wish to make a brief statement.

In consultation with the Senator from New Jersey [Mr. CASE], the majority leader [Mr. MANSFIELD] and the majority whip [Mr. HUMPHREY] I was persuaded that it would not be in the public interest to permit the filibuster of Senate Concurrent Resolution 1 to continue to the detriment of passage of bills be they uncontested or contested, which the majority leader felt should be brought up and passed.

I wish to make the point that there is a filibuster against Senate Concurrent Resolution 1 going on, consisting of only two words uttered by the senior Senator from Georgia, "I object." It is nonetheless a filibuster.

However, I am interested in the speedy expedition of the public business, and I should like to ask the majority leader a question. Does the majority leader expect to return to consideration of the motion to consider Senate Concurrent Resolution 1 before the Senate adjourns tonight? I hope he does.

Mr. MANSFIELD. Yes. I would hope that the distinguished Senator from Pennsylvania and his colleagues would understand the situation—as I am sure he does, based on his explanation—and recognize the need for getting legislation passed while we still have time to do so.

I would hope also that, as the afternoon goes on, the Senator would seriously consider the strong possibility that the leadership may well move to adjourn tonight, with all its possible consequences.

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

Mr. MANSFIELD. I yield.

Mr. CLARK. I would ask the Senator whether there is any reason he knows why, after disposing of the business which he wishes to have passed today, the Senate might not stay in session all night and all day tomorrow before we adjourn, in order to determine whether we can break this filibuster in short order.

Mr. MANSFIELD. All I can say, speaking personally, is that I would not stay in session on a 24-hour basis, as the Senator from Pennsylvania seems to indicate he would like, to break a two-word filibuster. I believe what we are experiencing now is a trial run. When that trial run develops into the real thing, it is going to be a lot more than two words.

To make the answer as brief as possible, no.

Mr. CLARK. Mr. President, will the Senator yield further?

Mr. MANSFIELD. I yield.

Mr. CLARK. It occurs to me that what we need is a trial run and a little more practice. It will be harder to break a filibuster which consists of more than two words than one which consists of two words, but we need not a little spring training but a little winter training.

Mr. President, I shall not object.

Mr. MANSFIELD. I thank the Senator from Pennsylvania.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 689) for the relief of Lila Everts Weber.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana?

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

Mr. MILLER. 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. It is proposed to strike section 2 of the bill and substitute in lieu thereof the following:

Sec. 2. No amounts shall be payable by reason of the enactment of this Act with respect to any period prior to the date of enactment.

Mr. MILLER. Mr. President, I have discussed the pending amendment with the Senator from Missouri [Mr. LONG], who is the author of the bill. We have agreed on the amendment. The amendment is designed to keep this from being a precedent or an exception to the basic law. I am sure it will satisfy the principal equities of the situation covered by the bill.

I move that the amendment be adopted.

The PRESIDING OFFICER (Mr. KENNEDY in the chair). The question is on agreeing to the amendment offered by the Senator from Iowa.

The amendment was agreed to.

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. 689) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of section 376 of title 28, United States Code, as amended, Lila Everts Weber, widow of Judge Randolph H. Weber, United States District Court for the Eastern District of Missouri, shall be deemed to be entitled to receive an annuity under such

section in like manner as if the said Randolph H. Weber had rendered five years of service as a judge of the United States during which the salary deductions provided for by subsection (b) of such section had been made, except that such annuity shall be reduced by an amount equal to 10 per centum of the difference between the amount which would have been deducted and withheld pursuant to such subsection from the salary of the said Randolph H. Weber had he served for such five-year period and the amount actually deducted and withheld pursuant to such subsection during his service.

SEC. 2. No amounts shall be payable by reason of the enactment of this Act with respect to any period prior to the date of enactment.

Passed the Senate December 6 (legislative day, December 5), 1963.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 624), explaining the purposes of the bill.

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

The purpose of the proposed legislation is tn provide that, in the administration of section 376 of title 28, United States Code, as amended, Lila Everts Weber, widow of Judge Randolph H. Weber, U.S. District Court for the Eastern District of Missouri, shall be deemed to be entitled to receive an annuity under such section in like manner as if the said Randolph H. Weber had rendered 5 years of service as a judge of the United States during which the salary deductions provided for by subsection (b) of such section had been made. The resultant annuity is to be reduced by an amount equal to 10 percent of the difference between the amount which would have been deducted and withheld pursuant to such subsection from the salary of the said Randolph H. Weber had he served for such 5-year period and the amount actually deducted and withheld pursuant to such subsection during his service.

Section 2 provides that any amounts payable by reason of enactment of the bill with respect to any period prior to the date of such enactment shall be paid in a lump sum within 60 days after the date of enactment.

The Department of Justice declines to make a recommendation on the bill.

The Administrative Office of the U.S. Courts also declines to make a recommendation, stating that "* * * it presents a matter of policy for the determination of the Congress."

The records of the Department of Justice show that Judge Randolph H. Weber died on November 23, 1961, after serving approximately 4 years and 8 months on the bench of the U.S. District Court for the Eastern District of Missouri. Under the provisions of the Judicial Survivor's Annuity Act, 28 U.S.C. 376, a Federal judge must have "rendered at least 5 years of civilian service" for his widow to be eligible for an annuity. The bill would authorize payment of an annuity to Mrs. Weber to be computed on the basis of 5 years' judicial service, less a small deduction for salary deductions that would have been due the judicial survivor's annuity fund.

The committee is sympathetic with the purposes of the proposal and therefore recommends that the bill do pass.

CREATION OF HORIZONTAL PROPERTY REGIMES IN THE DISTRICT OF COLUMBIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 638.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 4276) to provide for the creation of horizontal property regimes in the District of Columbia.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana?

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4276) was passed.

SHELBURNE HARBOR SHIP AND MARINE CONSTRUCTION CO., INC.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 712.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 6808) for the relief of Shelburne Harbor Ship and Marine Construction Co., Inc.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill (H.R. 6808), which was ordered to a third reading, was read the third time, and passed.

CODIFICATION OF GENERAL AND PERMANENT LAWS RELATING TO THE JUDICIARY AND JUDICIAL PROCEDURE OF THE DISTRICT OF COLUMBIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 723.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 4157) to enact part II of the District of Columbia Code entitled "Judiciary and Judicial Procedure," codifying the general and permanent laws relating to the judiciary and judicial procedure of the District of Columbia.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments, on page 7, section 11–521(a), sixth line, strike out "September 1, 1963," and insert "January 1, 1964,".

Page 19, section 11–982(b), seventh line, before the word "prescribed", insert the word "otherwise".

Page 26, section 11–1503(b), seventh line, after the word "until", insert "the removal of such disability, and".

Page 26, section 11–1521(a), first line, after the word "appoint", insert "from the eligible list of the Civil Service Commission,".

Page 29, section 11–1551(G), third line, strike out the word "or".

Page 29, section 11–1551(H), second line, strike out the word "or".

Page 30, section 11–1555, strike out all text of said section and insert in lieu thereof "The Juvenile Court has original and exclusive jurisdiction of proceedings to determine paternity of any child alleged to have been born out of wedlock and to provide for his support in the manner provided by subchapter II of chapter 23 of title 16."

Page 33, section 11–1586(c), seventh line, after "duties," insert "upon conviction thereof,".

Page 50, section 13–336(a), fifth line, after the word "persons", insert ".".

Page 63, section 15–106(c), seventh line, change the word "defendants" to "defendant's".

Page 66, section 15–307, fourth line, change the word "debtor" to the word "defendant".

Page 66, section 15–310, sixth line, change the word "property" to the word "estate".

Page 67, section 15–315, in the heading of said section, change the word "on" to the word "or".

Page 79, section 15–710, fourth line, change the word "action" to the word "actions".

Page 92, section 16–503, fifth line, change the word "affidavits" to the word "testimony".

Page 93, section 16–507(a), first line, after the word "on", strike out the words "any interest in".

Page 101, section 16–531, third line, change the word "property" to the word "estate" wherever it appears.

Page 102, section 16–532, third line, strike "property" after "personal" and insert in lieu thereof "estate".

Page 102, section 16–532, fourth line, strike "property" after the word "personal" and insert in lieu thereof "estate".

Page 110, section 16–703(e), second line, change the figures "15–710(b)(2)" after the word "section" to "15–709(b)(2)".

Page 113, in the analysis of chapter 9, section 16–912, strike out the words "on intestate share".

Page 114, section 16–905, first line, strike out the word "for" after divorce and insert in lieu thereof "from".

Page 115, section 16–912, strike out all of the heading and text of said section and insert in lieu thereof:

16–912. Permanent alimony; Enforcement; Retention of dower.

When a divorce is granted to the wife, the court may decree her permanent alimony sufficient for her support and that of any minor children whom the court assigns to her care, and secure and enforce the payment of the alimony in the manner prescribed by section 16–911, and may, if it seems appropriate, retain to the wife her right of dower in the husband's estate; and the court may, in similar circumstances, retain to the husband his right of dower in the wife's estate.

Page 116, section 16–914, first line, change the word "granted" to the word "granting".

Page 142, section 16–1503, fourth line, after the word "favor", strike ";" and insert ",".

Page 149, section 16–2302, in the last sentence of said section, change the word "is" after "required" to the word "are."

Page 150, section 16–2303, fourth line, after the word "person", strike out the words "who has the" and insert the words "or persons who have".

Page 155, section 16–2316, third line, strike out the words "so construed" and insert in lieu thereof the words "liberally construed so".

Page 161, section 16–2382, second line, after the word "persons", change "," to "." and strike out the remainder of said section.

Page 164, section 16–2922, in the heading after the word "Widow", insert the words "or widower".

Page 164, section 16–2924, in the heading after the word "widow's", insert the words "or widower's".

Page 168, section 16–3111, second line, change the word "widowers" to the word "witnesses".

Page 177, section 16–3739, fourth line, strike out the words "or publication".

Page 180, section 16–3902(g), third line, strike out all text after "action." and substitute in lieu thereof "Where, in a case controlled by another statute, a greater or lesser time for hearing is specified by the other statute, that specified time is controlling. All actions filed in the Branch shall be made returnable therein."

Page 181, section 16–3903, tenth line, change the words "informa pauperis" to "in forma pauperis".

Page 193, section 17, fifth line, strike the words "September 1, 1963" and insert in lieu thereof "January 1, 1964".

Page 196, section 20, first line, strike the words "September 1, 1963" and insert in lieu thereof "January 1, 1964".

Page 196, section 21(a), seventh line, strike the words "February 1, 1963" and insert in lieu thereof "August 10, 1963".

Page 205, Table of Statutes at Large—Continued, opposite date of October 23, and in the third column, add "1," before the figure "2", and in the sixth column opposite same date of October 23, move the reference "11–751a" which is the fifth from the bottom of said column, to a position in said column opposite the extension of date October 23, and add ",", making the fourth reference from the bottom of said column read "11–751a, 11–755".

Page 205, Table of Statutes at Large—Continued, after the second "Do", under October 23, strike out "5(b)(c)".

Page 205, Table of Statutes at Large—Continued, at the end thereof insert the following:

1963—July 8	88–60	2, 3	77	77	11–755, 11–756.
Do	88–60	4	77	78	11–756.
Do	88–60	5	77	78	11–520a, 11–771a.
Aug. 5	88–85	1, 2	77	117	11–805.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4157) was read the third time and passed.

Mr. ERVIN. Mr. President, H.R. 4157 was received in the Senate after passage, with amendments, in the House on June 19, 1963, and was referred to the Committee on the Judiciary. By referral to the Subcommittee on Revision and Codification, I summarize hereinafter the steps taken by the subcommittee staff in connection with this bill.

Shortly after receipt thereof, the committee after reviewing the House bill and report, referred the matter to the following officials who have direct responsibilities in the field covered by part II of the District of Columbia Code with which H.R. 4157 deals exclusively:

Hon. Matthew F. McGuire, chief judge, U.S. District Court for the District of Columbia.

Hon. John Lewis Smith, Jr., chief judge, District of Columbia court of general sessions.

Hon. Morris Miller, chief judge, the juvenile court of the District of Columbia.

Hon. John H. Pratt, president, District of Columbia Bar Association.

Responses were received from Judges Smith and Miller but no response was received from Judge McGuire. The committee received a letter from the president of the District of Columbia Bar Association stating that the matter had been referred to Mr. Michael A. Schuchat, Chairman of the Committee on Revision of the District of Columbia Code. This letter was dated August 1, 1963, and set forth the deadline of August 20 for any suggestions to be made. As of this date, no further communication has been received from the bar association of the District of Columbia.

On July 30, 1963, I inserted a notice in the CONGRESSIONAL RECORD as follows:

NOTICE CONCERNING H.R. 4157, A BILL TO ENACT PART II OF THE DISTRICT OF COLUMBIA CODE, ENTITLED "JUDICIARY AND JUDICIAL PROCEDURE"

Mr. ERVIN. Mr. President, on behalf of the standing Subcommittee on Revision and Codification of the Committee on the Judiciary, I desire to give notice that the subcommittee now has under consideration H.R. 4157, 88th Congress, 1st session, and the accompanying report thereon, House Report No. 377, regarding revision and codification of Part II of the District of Columbia Code, entitled "Judiciary and Judicial Procedure."

The purpose of this notice is to advise any and all interested parties of the consideration of this legislation by the subcommittee and that the subcommittee desires to have any statements or comments relating to the proposed legislation. The statements or comments requested are for the purpose of allowing any and all persons to express their views as to such legislation.

It is requested that such statements or comments be forwarded to the Subcommittee on Revision and Codification of the Committee on the Judiciary, room 341, Old Senate Office Building, on or before August 20, 1963.

The subcommittee consists of the Senator from Michigan [Mr. HART]; the Senator from Pennsylvania [Mr. SCOTT]; and myself, as chairman.

A letter was received from Judge Morris Miller, chief judge, the Juvenile Court of the District of Columbia, making certain suggestions, all of which appeared to be reasonable and have been accepted and amendments prepared to the House bill accordingly.

On August 13, 1963, in response to my letter dated July 31, 1963, to the Honorable John Lewis Smith, Jr., chief judge, District of Columbia court of general sessions, the committee was supplied with a memorandum of the same date, prepared for him by the Attorney Advisors of the District of Columbia court of general sessions. In view of the suggestions for changes recommended in this memorandum, copy of same was submitted to the Equity Publishing Corp., the codifying contractor to the House committee. Subsequent thereto, a memorandum was received from Equity making certain recommendations pertaining to the suggestions contained in the memorandum from the District of Columbia court of general sessions. Several of the suggestions in said memorandum from the court have been accepted and amendments prepared; however, there were numerous suggestions contained in said memorandum which are not being recommended by the committee and the following is an explanation in each instance as to why it is not recommended that the changes as suggested in said court memorandum be made in this bill:

(1) SECTION 11–741(a)(1)

We question whether reference should also be made to final judgments of the landlord and tenant branch and the criminal division. There is a landlord and tenant branch in the civil division of the court of general sessions, but we cannot find any statute establishing it. Nor do we find that it was established by rule of that court, although the court does have separate procedural rules for that branch. There are statutes establishing a domestic relations branch and a small claims and conciliation branch. District of Columbia Code, 1961 edition, sections 11–758, 11–801, and those two branches are also mentioned in District of Columbia Code, 1961 edition, section 11–772, from which new section 11–741 is partly taken. That is why we mentioned them in new section 11–741, but the language used is not exclusive of other branches.

Regarding the omission of the reference to the criminal division, it is not referred to in section 11–772 of District of Columbia Code, except in the manner preserved by us in new section 11–741(c), which relates to a matter of procedure, rather than jurisdiction.

It seems to us that, actually, the words in new section 11–741(a)(1) "final orders and judgments of the District of Columbia court of general sessions" are all inclusive.

If—in the future—references to the landlord and tenant branch and the criminal division are to be included, paragraph (1) should be divided into two paragraphs as follows:

(1) final orders and judgments of the civil division of the District of Columbia court of general sessions, including final orders and judgments of the small claims and conciliation branch, the landlord and tenant branch, and the domestic relations branch of that division;

(2) final orders and judgments of the criminal division of the District of Columbia court of general sessions;—

With consequent renumbering of present paragraphs (2) and (3) as "(3)" and "(4)", respectively, and with consequent redrafting of the revision note.

Or to preserve the present paragraph numbering, perhaps paragraph (1) could be rewritten merely to provide as follows:

(1) final orders and judgments of the District of Columbia court of general sessions, including final orders and judgments of any of its divisions or branches;.

The above would render it unnecessary to amend the paragraph should additional branches or divisions be established in the future, whereas the first redraft proposed above would render such amendment necessary.

But we feel that new section 11–741 (a) (1), which follows more closely the present statutes, is adequate as it now reads.

(2) SECTION 11–1141 (A) (3)

We have not as yet received the Advance Sheet pamphlet containing *Johnson* v. *Johnson*, U.S.D.C.A., No. 17,260, dated July 19, 1963. We have, however, looked over the case of *Johnson* v. *Johnson*, 183 A. 2d 916—municipal court of appeals—and presumably, if the first case referred to above is a U.S. court of appeals case, it must have affirmed the judgment rendered in 183 A. 2d 916. But in 183 A. 2d 916 there is a strong dissenting opinion by the chief judge of the municipal court of appeals—now District of Columbia court of appeals—and, even if the first case mentioned above is an affirmance of the judgment in 183 A. 2d 916, we question whether this judicial interpretation should be incorporated in section 11–1141(a) (3) at this stage of the matter. Perhaps the judgment will even be appealed to the U.S. Supreme Court. It might create controversy to put it in.

(3) SECTION 11–1141 (A) (9)

Apparently, the case mentioned states the law, that is, the judicial interpretation of paragraph (9)—see 1961 code edition, section 11–762—which has been the interpretation for some time, but again we question whether it would be wise to attempt to spell it out in the statute.

If in the future this is to be done it is suggested that present subsection (b) be designated "(c)," and that a new subsection (b) be inserted as follows:

(b) Notwithstanding clause (9) of subsection (a) of this section, if a divorce, absolute or limited, is not granted in an action or proceeding, the District of Columbia Court of General Sessions, or the Domestic Relations Branch thereof, has no power or authority to partition or award to one spouse real or personal property held by the entireties.

If the above is done, the following should be inserted in the revision note to section 11–1141, immediately preceding the paragraph "Changes are made in phraseology and arrangement":

Subsection (b), while new as text, states the law as held in the case of *Ridgely* v. *Ridgely* (D.C. Mun. Appeals 1963) 188 A. 2d 296. See, also, *Hogan* v. *Hogan* (1957) 102 U.S. App. D.C. 87, 250 F. 2d. 412, which was decided while the District court had jurisdiction of matters relating to divorce, maintenance, etc., and section 16–910 of this revised part.

(4) SECTION 11–1141(a) (11)

The memorandum makes no recommendation here, but we should like to point out that in table 7 in the House Report to H.R. 4157—page A220—we are recommending that section 16–1601 et seq., of District of Columbia Code, 1961 edition, be transferred to chapter 3 of title 30—in part V—hence our reference to that chapter in section 11–1141(a) (11).

In this connection, we are wondering if we could be advised at an early date if you plan to follow our recommendations as to transfers—in table 7—and also as to what the exact new classifications will be. This will enable us to keep a tab on the matter. There may be other references in part II—or revised part III—which should be watched, and corrected if necessary.

(5) SECTION 11–2301

As pointed out in the revision note, section 1861 of title 28, United States Code, is applicable to the district court in the District of Columbia. It contains the residence requirement. In our opinion, it superseded section 11–1417 of the District of Columbia Code, 1961 edition, to this extent. See, also, 28 United States Code, sections 88, 132, 451. The provisions of section 11–2301 are made uniform for all courts in the District of Columbia, in view of the other sections cited in the first paragraph of the revision note. All of this is pointed out in the revision note.

(6) SECTION 11–2313

We do not believe that we are in position to specifiy just what jurors in the court of general sessions and the juvenile court are to receive for their services, other than to specifiy that—as indictated in the code sections cited in the first paragraph of the revision note to section 11–2313—they are to receive the same fees as those provided for jurors in the district court. This is effected by referring in new section 11–2313 to section 1871 of title 28, United States Code, which is applicable to the district court.

In a previous bill—several years ago—we did provide in this section that jurors serving in the municipal court and the juvenile court should receive the fees "and travel and subsistence allowances" as may be fixed by section 1871 of title 28, United States Code. The reference to travel and subsistence allowances was deleted from the later bill, however, because, apparently, of the following reasons: Several years ago, the first bill covering part II was circulated among the courts and members of the bar association, and various memos were prepared by the courts and bar committees appointed to examine the bill. In this connection, we refer to page 71 of a lengthy memorandum prepared by J. Hendren Holmes and A. Roy MacKay and submitted to Judges Myers, Beard, and Walker—constituting a committee on code revision—and entitled "Memorandum Re Revision of Part II, District of Columbia Code, Entitled 'Judiciary and Judicial Procedure.'"

Page 71 of the memorandum is the first page of an "addenda" containing suggestions by Judge Munter and "the clerk." We do not know which court this is. Regarding section 11–2313, it is stated that the clerk questions the feasibility of applying the language "and travel and subsistence allowances" to purely local juries in purely local courts. See bottom of page 71. Probably it is because of this comment that the reference to travel and subsistence allowances was later deleted from section 11–2313.

(7), (8) SECTIONS 15–101(a) (2), 15–102(a) (2)

We think that in both of these sections, the reference to "civil division" is broad enough to include all branches of the court of general sessions. See new sections 11–901, 11–1101, and 11–1301. As previously stated, there is no statute creating the Landlord and Tenant Branch, but obviously it is in the civil division.

(9) SECTION 15–501(a)

We agree that the amounts of the several exemptions are not realistic, considering the decrease in the value of the dollar today. They should be raised, but to do so was beyond the scope and authority of the revisers.

(10) SECTION 15–705(a)

Section 11–1519 of the District of Columbia Code, 1961 edition, as amended by act October 4, 1961, Public Law 87–349, section 2, 75 Stat. 769, does include fees. See supplement II, 1963, page 69.

The other comment relates to a question of style.

(11) SECTION 15–707 OF H.R. 8857—86TH CONGRESS

This section, which was based on section 11–1510 of District of Columbia Code, 1951 and 1961 editions, and which related to marshal's fees in the District of Columbia, was omitted from H.R. 4157 because said section 11–1510 was repealed by act August 31, 1962, Public Law 87–621, section 2, 76 Stat. 418, and is now covered by section 1921 of title 28, United States Code, as amended by the same act.

(12) SECTION 15–709

The comment in the memo apparently refers to subsection (b) (1) of this section, which relates to fees of the marshal with respect to civil actions in the court of general sessions. Apparently, it states the law as specified in the first paragraph of section 11–748 of District of Columbia Code, 1961 edition, which provides that the marshal's fees in such actions in the "municipal court" shall be as prescribed by the district court.

It may be, however, that some clarification is necessary. Although we have been unable to find, in the local rules of the district court, any reference to former section 11–1510 of District of Columbia Code, 1961 edition—now repealed; see our comment under section 15–707, H.R. 8857 above—which the comment in the memo states is contained therein—but does not state which rule makes the reference—apparently it is correct, as the memo states, that the district court, at

least in its own local rules, has not prescribed the marshal's fees for services in civil actions—or any other kinds of actions—in the municipal court—now court of general sessions.

What is also somewhat mystifying is that volume 5 of Flaherty's District of Columbia Practice, 1949 edition, section 4162, at page 15, there is set out a schedule of marshal's fees in the "municipal court, District of Columbia, civil division," which the comment states is based on the old rules of that court, 1935. The comment there goes on to state:

Marshal's fees in municipal court, District of Columbia, civil division. The following schedule of fees charged by the marshal's office for services rendered in connection with actions and proceedings in municipal court, District of Columbia, civil division, is based on the old rules of the municipal court of the District of Columbia, 1935. The new rules of the municipal court, District of Columbia, do not contain any such schedule but inasmuch as the schedule shown below appears to be correct and applicable at the present time it is here shown as a convenient reference and as a complement to the foregoing schedule of fees of the clerk's office of municipal court, District of Columbia, civil division. A schedule of such fees corresponding to the above rule, with a few additional items, is posted in the marshal's office in municipal court, District of Columbia, somewhat as follows:

Then follows the schedule.

As stated in Flaherty, the present rules of the municipal court—now court of general sessions—do not prescribe a schedule of marshal's fees. But what we do not understand is how that court could have prescribed such fees in the first place, that is, in its old 1935 rules, considering the provision of section 11–748 of District of Columbia Code, 1961 edition, that the fees must be prescribed by the district court.

It seems to us that we must adhere to the law governing the matter, unless we are given authority to change it. Considering the greatly enlarged powers and jurisdiction of the court of general sessions, it may be that court, rather than the district court, should be permitted to prescribe the marshal's fees in civil actions therein. But this involves a matter of policy which perhaps was beyond the scope and authority of the revisers.

(13) SECTION 16–517

As stated in the revision note, the present wording, in proposed section 16–517, was substituted for the purpose of clarification. We do not believe the substitution creates a substantive change.

(14) SECTION 16–552

We have no record of having made this change here, that is, the substitution of "asking about" for "concerning." The same change was made in new section 16–521—based on District of Columbia Code, 1961 edition, section 16–303. But we do not believe the substitution changes the meaning or intent of either section.

(15) SECTION 16–416 OF DISTRICT OF COLUMBIA CODE, 1961 EDITION

As indicated in table 5 of the House committee report to H.R. 4157—at page A213—section 16–416 was omitted from revised part II as covered by rules 1 and 7 of the civil rules of the court of general sessions; rule 1 of the rules for the domestic relations branch of that court; those rules and the Federal Rules of Civil Procedure, generally, which merged law and equity procedure; and sections 11–1141 and 13–101(b) of revised part II of the code, as set out in the bill, H.R. 4157.

(16) SECTION 16–920

We do not understand the comment: "Note: This is a situation in which the effective date should be mandatory," unless it is meant that the section should provide definitely when the decree shall take effect, rather than using the language "A final decree * * * is not effective * * * until" and "Every decree * * * may not be absolute and take effect until."

In any event, except for minor style changes, the language follows the source section, 16–421 of District of Columbia Code, 1961 edition, and, without authority, we do not believe that it should be revised further.

(17) SECTION 16–2701

We agree that the court of general sessions ought to be given jurisdiction of actions under this section and chapter, if the damages claimed are within the jurisdictional amount—$10,000. But may we make this substantive change? The reason why it was held in the case referred to in the memo—125 A. second 847—that such actions, regardless of amount, could not be brought in the municipal court—now court of general sessions—was because the section provides that the U.S. court of appeals is the only court to which appeals may be taken from the action; and that court does not take appeals directly from the court of general sessions.

If the section is changed to permit such actions in the court of general sessions, this could be done by taking the following steps in section 16–2701:

1. In the next to the last sentence of the second paragraph—commencing "If, in a particular case,"—substitute "appellate court" for "United States Court of Appeals for the District of Columbia Circuit".

Second. Add a third paragraph reading as follows:

The District of Columbia Court of General Sessions has exclusive jurisdiction of actions brought pursuant to this chapter, if the damages claimed do not exceed the sum of $10,000, exclusive of interest and costs, as well as all cross-claims and counterclaims filed in the actions, regardless of the amount involved.

NOTE.—We are not sure of two things in connection with the above-proposed third paragraph: Whether the jurisdiction of the court of general sessions should be made exclusive, if within the jurisdictional amount (as we are proposing, if it is decided to change the section); and whether the proposed language "exclusive of interest and costs, as well as of all cross-claims and counterclaims," etc., is, or should or could be applicable to this type of action (see sec. 11–961(a) of revised pt. II as set out in H.R. 4157, p. 17).

If the jurisdiction of the district court should be concurrent, regardless of amount, then the third paragraph could read:

The U.S. District Court for the District of Columbia, and the District of Columbia Court of General Sessions, within the limits of its jurisdiction as provided by section 11–961, have concurrent jurisdiction of actions brought pursuant to this chapter.

(18) SECTION 16–3732

We believe we were correct in changing the value of the goods to not more than $10,000, in view of the enlarged civil jurisdiction of the court of general sessions. See section 11–961(a) of revised part II.

Shortly after receipt of the House bill and report by this subcommittee, copies of said report and bill were furnished to the Senate District of Columbia Committee for consideration. On October 2, 1963, a discussion was had with the staff of the District of Columbia Committee and the committee has been kept advised by memorandum of our actions on this bill.

Mr. President, I also ask unanimous consent to have printed in the RECORD a letter from the Senator from Nevada [Mr. BIBLE].

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

U.S. SENATE,
December 3, 1963.

Hon. SAM J. ERVIN, Jr.,
Chairman, Subcommittee on Revision and Codification, Senate Committee on the Judiciary, Washington, D.C.

DEAR SENATOR: This will refer to your subcommittee's consideration of H.R. 4157, a bill to enact part II of the District of Columbia Code, entitled "Judiciary and Judicial Procedure," codifying the general and permanent laws relating to the judiciary and judicial procedure of the District of Columbia.

My committee staff advises me that your staff has discussed with them within the past month the contents of the House-passed legislation together with certain proposed amendments under consideration by your subcommittee. It is my understanding that the Law Revision Counsel of the House Judiciary Committee and his staff together with the Equity Publishing Corporation, the codifying contractor to the House committee, has spent several years on the codification preparation contained in this legislation. It has not been possible for myself and this committee, in addition to my committee staff, to examine the bill and the proposed amendments. However, my committee staff advises me that they have been informed by the staff of your subcommittee that no substantive changes are contained in the bill or proposed amendments and that the language thereof deals simply with codification of the general and permanent laws relating to the judiciary and the judicial procedure of the District of Columbia.

Your courtesy in submitting, on an informal basis, the contents of this bill together with proposed amendments thereto and a memorandum dealing with the consultation by your subcommittee staff with the judges of the several District of Columbia courts, and the president of the District of Columbia Bar Association, is appreciated.

Please accept my best wishes.

Cordially,

ALAN BIBLE.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed

in the RECORD an excerpt from the report (No. 743), explaining the purposes of the bill.

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

PURPOSE OF ENACTMENT

The purpose of this bill is to revise, codify, and enact part II of the District of Columbia Code.

This bill constitutes one phase of the comprehensive program of the Committee on the Judiciary to revise and enact, without substantive change, all the titles of the United States Code and the District of Columbia Code. The manuscript and editorial work was done under contract to the House Judiciary Committee by the Equity Publishing Corp.

Revision, as distinguished from simple codification, means the substitution of plain language of awkward terms, reconciliation of conflicting laws, omission of obsolete, superseded, or repealed sections, and consolidation of similar provisions. The purpose of this enactment is not to change substantive law, but to put that law in a form that will be more useful and understandable.

SCOPE

This bill is based upon part II of the 1961 edition of the District of Columbia Code, with the addition of a few provisions from other parts which are transferred to improve the arrangement of the code as a whole.

Before actual revision was begun a scientific plant was assembled. This included—

1. the complete text of Part II, District of Columbia Code, 1961 edition, and the latest cumulative supplement (Supp. 55);

2. the complete text of original acts from the Statutes at Large;

3. applicable constructions of the courts; and

4. pertinent congressional reports, and other background materials.

HISTORY

The last code of laws for the District of Columbia enacted by Congress was the code of 1901, as set out in act of March 3, 1901, chapter 854, 31 Stat. 1189. All "codes" published since that time, including the 1961 edition, were consolidation and compilations only, and were not enacted as law.

Actually, the 1901 Code did not contain all the local law applicable in the District at that time. By its own terms (sec. 1 of the act; District of Columbia Code, 1961, ed., sec. 49–301), in addition to providing for the applicability of the common law, the principles of equity and admiralty, all general acts of Congress not locally inapplicable in the District, and all acts of Congress by their terms applicable to the District and to the other places under the jurisdiction of the United States, in force in the District in March 3, 1901, it provided that all British statutes in force in Maryland on February 27, 1801, should also be applicable in the District "except in so far as the same are inconsistent with, or replaced by, subsequent legislation of Congress." Further, there were a number of prior acts relating to the District, the provisions of which were not carried into the code, and which were specifically or impliedly saved from repeal (unless inconsistent with or replaced by the provisions of the code) by section 1636 of the 1901 act (31 Stat. 1435). Consequently, later code compilations have been based, not only on the 1901 Code, as amended or supplemented, but also on all prior acts, including sections of the Revised Statutes of the District of Columbia, 1874, and British statutes (sometimes as amended by Act of Maryland prior to February 27, 1801), which the codifiers considered as still being in force in the District. Some of the British statutes date back to the 13th century.

More than 60 years have passed since the laws relating to the District were enacted as a code. Many of the British statutes set out in the 1961 compilation, and prior compilations, while they may have been considered as technically being in force in the District, not only are archaic in language but actually can have no present application in the District, or are obsolete. Others, like many of the other provisions of the 1901 Code and of later independent acts relating to the District, have been repealed, superseded, or affected in some way by subsequent legislation. New legislation enacted since the publication of the 1961 compilation has increased the bulk of the latest cumulative supplements to the extent that they cannot be placed in the pockets inside the back covers of the main volumes.

There is an urgent need for a new reconciliation and codification of the laws relating to the District, and the revision contained in this bill is the first step in that direction. Part II of the code was selected for the initial step because it was felt that, before anything else along this line is attempted, it is of primary importance to reconcile and present in a manner useful to Congress, the bench and bar, and all other interested parties, the laws relating to the organization of the courts of the District and to the practice and procedure in those courts.

PARTICULAR PROBLEMS

In addition to the usual comparison of similar statutes to determine what parts of the older statutes were in conflict with those enacted later, and therefore superseded, considerable study had to be given to the problem of reconciling statutory procedural provisions with the Federal Rules of Civil Procedure and other court rules adopted under authority of law. Many of the statutory provisions, including some of the old British statutes referred to above, apparently had been replaced by one or more of these rules, and accordingly have been omitted from this bill. Table 5 of this report lists all sections of District of Columbia Code, 1961 edition, omitted from the bill which are included in the schedule of repeals. In each case, the table gives the reason for the omission and repeal. Table 6 lists certain sections of District of Columbia Code, 1961 edition, which are also omitted, and gives the reasons for their omission. They are not included in the schedule of repeals, however, because it was discovered that they had already been repealed, or because they were based on British statutes which technically could not be repealed, or because the particular sections of statutes from which they were derived contain other provisions which are classified elsewhere in the District of Columbia Code, 1961 edition, and are not subject to repeal. In the latter case, the basic provisions are amended by separate sections in the bill, for the purpose of deleting the superseded or obsolete provisions.

ARRANGEMENT AND NUMBERING

In the revision, part II is redesignated "Judiciary and Judicial Procedure," and is rearranged so that only the provisions relating to the organization and operation of courts of the District, including the appointment of court officers and employees, selection of jurors, duties of the coroner, and admission to the bar and other regulation of attorneys, are retained in the first title, that is title 11. All procedural matter that was in that title has been separated therefrom and transferred to the procedural titles following thereafter. This arrangement follows, substantially, that of title 28, United States Code, which was enacted in 1948, although the system of captions and numbering in the District of Columbia Code is different from that used in the United States Code.

The revision contains the same number of titles as contained in part II of the 1961 edition of the code, and uses the same style of section numbering, but chapters within titles are given odd numbers only, leaving even numbers for use in future expansion.

AMENDMENTS, ENACTING PROVISIONS, AND REPEALS

The text of the revision of part II of the District of Columbia Code is set out in section 1 of the bill.

Sections 2–13 of the bill amend statutory provisions classified to other parts of the District of Columbia Code, 1961 edition, so that they will conform with provisions in this revision.

Section 14 provides for separability of provisions of part II of the code, as set out in section 1 of the bill.

Section 15 provides against any inference of a legislative construction by reason of classification or captions or catchlines used throughout the revised part.

Sections 16 and 17 are saving provisions with respect to certain jurisdiction and powers, organization of the courts, appointment, tenure, and compensation of judges and court officers and employees, etc.

Section 18 authorizes appropriations necessary to carry out the provisions of revised part II.

Section 19 lists the British statutes which heretofore have been classified to part II of the District of Columbia Code, and provides that they have no further force and effect in the District. However, those provisions of the British statutes that were regarded as still having force in the District have been rewritten in modern language as far as possible and carried into revised part II, as set out in section 1 of the bill. Upon the enactment of the bill, they will continue as part of the law of the District, but no longer as British statutes.

Section 20 provides for the effective date.

Section 21 provides for the specific repeal of laws either incorporated in the revision or considered obsolete or superseded.

REVISION NOTES AND TABLES

The revision notes are keyed to sections in the revision and explain the changes made in the text.

In addition to the tables referred to above, reference tables are set out elsewhere in this report to facilitate the study of those interested in the revision. These show the distribution, in the revision, of statutes, sections from the 1961 edition of the District of Columbia Code, and those British and Maryland statutes which were not discarded.

RIGHT OF PERSONS TO BE REPRESENTED BY ATTORNEYS IN MATTERS BEFORE FEDERAL AGENCIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 725.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 1466) to provide for the right of persons to be represented by attorney in matters before Federal agencies.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments on page 2, line 4, after the word "acts", to insert "and that he is currently qualified as described in section 1(a) of this

Act"; in line 9, after the word "construed", to strike out "(i)"; in the same line, after the word "either", to insert "(i)"; in line 13, after the word "discipline", to insert "including disbarment, of"; in line 14, after "(iii)", to strike out "or"; in line 17, after the word "agency", to insert a semicolon and "or (iv) to prevent an agency from requiring a power of attorney before the agency transfers funds to the attorney for the party whom he represents", and on page 3, line 9, after the word "section", to strike out "1(a)" and insert "2(a)"; 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,

PRACTICE BY ATTORNEYS

SECTION 1. (a) Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, commonwealth, or the District of Columbia, in which he resides or maintains an office, may represent others before any agency.

(b) When such a person acting in a representative capacity appears in person or signs a paper in practice before an agency, his personal appearance or signature shall constitute a representation to the agency that under the provisions of this Act he is authorized to represent the particular party in whose behalf he acts, and that he is currently qualified as described in section 1(a) of this Act. Any misrepresentation under this Act shall subject the person to the provisions of section 1001 of title 18 of the United States Code.

(c) Nothing herein shall be construed either (i) to grant or to deny to any person who is not a lawyer the right to appear for or represent others before any agency or in any agency proceeding; (ii) to authorize or limit the discipline, including disbarment, of persons who appear in a representative capacity before any agency; (iii) to authorize any person who is a former officer or employee of an agency to represent others before an agency where such representation is prohibited by statute or regulation of an agency; or (iv) to prevent an agency from requiring a power of attorney before the agency transfers funds to the attorney for the party whom he represents.

SERVICE BY OR UPON ATTORNEYS

SEC. 2. When any participant in any matter before an agency is represented by an attorney at law and that fact has been made known in writing to the agency, any notice or other written communication required or permitted to be given to or by such participant shall be given to or by such attorney. Where any other method of service is specifically provided by statute, service shall also be made as so provided. If a participant is represented by more than one attorney, service by or upon any one of such attorneys shall be sufficient.

DEFINITION OF AGENCY

SEC. 3. As used in this Act, "agency" shall have the same meaning as it does in section 2(a) of the Administrative Procedure Act, as amended (60 Stat. 237, as amended).

Mr. KEATING. Mr. President, it is a matter of some personal pride for me to witness the passage of this legislation by the Senate. My interest in legislation to free members of the bar in good standing from onerous admissions qualifications imposed by a number of Federal administrative agencies extends back to my days as a Member of the other body, and for a number of Congresses I sponsored bills on the subject. Support for them continued to grow over the years, and culminated in widespread endorsement this session of both the bill (S. 318) introduced by the junior Senator from Nebraska [Mr. HRUSKA] and myself, and the bill (S. 1466) approved by the Senate at this time. Although the two bills are somewhat different in form, they have a common purpose, and enactment of S. 1466 today is as satisfying to me as would be the enactment of the other bill under the sponsorship of Senator HRUSKA and myself.

I hope this legislation will not be commonly conceived of as being in the nature of a private bill exclusively for the relief of members of the bar, although it certainly has that aspect to it, too. In great part, this bill is for the relief of the American taxpayer. The Hoover Commission long ago concluded, after careful study, that savings of at least $300,000 a year could be made by the Treasury Department alone by eliminating intricacies in its formal admissions procedures for attorneys. To a lesser but by no means inconsiderable extent, the costs of administration in other agencies are similarly more than is required in the interests of regulating practice and preserving agency disciplinary powers over persons appearing before them. Therefore, this legislation serves an overriding public interest, and I am certainly heartened at the progress today toward its final enactment into law.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill (S. 1466) was ordered to be engrossed for a third reading, was read the third time, and passed.

CREATION OF JOINT COMMITTEE TO STUDY THE ORGANIZATION AND OPERATION OF CONGRESS

The Senate resumed the consideration of the motion to proceed to the consideration of the concurrent resolution (S. Con. Res. 1) to create a joint committee to study the organization and operation of the Congress and recommend improvements therein.

Mr. MANSFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of Senate Concurrent Resolution 1.

Mr. MANSFIELD. Mr. President, if no Senator seeks recognition, I shall suggest the absence of a quorum.

Several Senators addressed the Chair.

SUSPENSION OF CERTAIN PROVISIONS OF THE MERCHANT MARINE ACT, 1920, WITH RESPECT TO TRANSPORTATION OF LUMBER

Mr. MANSFIELD. Mr. President, I ask unanimous consent again that the Senate may temporarily lay aside the motion to proceed to consider the Clark-Case resolution and turn to the consideration of Calendar No. 546, S. 2100. I make that request at this time in line with the others previously granted, because I understand those Senators most interested in the measure are in the Chamber and prepared to go ahead. This will not displace the motion to proceed to consider the Clark-Case resolution.

The legislative clerk read the title of the bill, as follows:

A bill (S. 2100) to continue certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber.

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

Mr. MANSFIELD. I yield to the Senator from New Jersey.

Mr. CASE. Will the Senator amend his statement so as to read "The Clark-Case-Keating" resolution?

Mr. MANSFIELD. The Clark-Case-Keating resolution, sponsored by 28 other Senators.

ORDER OF BUSINESS

Mr. KEATING. Mr. President, will the Senator yield prior to action on the unanimous-consent request?

Mr. MANSFIELD. I yield.

Mr. KEATING. I should like to inquire of the majority leader approximately how long he thinks it will take to dispose of this measure.

Mr. MANSFIELD. My guess, from what I understand, would be somewhere in the neighborhood of half an hour.

Mr. MAGNUSON. No longer than that.

Mr. KEATING. Is it contested?

Mr. MANSFIELD. Some speeches will be made on it. There will be no rollcalls.

Mr. KEATING. I hope we can reach the consideration of the question of whether we are to take up the measure.

Mr. MANSFIELD. Which one?

Mr. KEATING. The Senate concurrent resolution.

Mr. MANSFIELD. I would not lose any sleep over that.

Mr. DIRKSEN. I can assure the distinguished Senator from New York that it will not be taken up, and will not be voted on.

Mr. KEATING. That is a curious answer to get. Does the Senator mean there are speakers to take up the time?

Mr. DIRKSEN. I mean the minority leader, if it became necessary, would be here to speak at considerable length on the matter.

Mr. KEATING. Is it the intention of the majority leader to take action or make any effort to dispose of it today?

Mr. MANSFIELD. No, it is not. To be perfectly honest, it is the intention of the majority leader to move to adjourn until 12 o'clock noon on Monday next, at an appropriate time, after Senators who wish to speak on this and other matters have done so.

I am sure the Senator from New York and other Senators will recognize that there are certain courtesies extended to the leadership with respect to adjournment.

Mr. KEATING. Yes; and the leadership has been courteous to me from time to time. I was seeking to find out what the intention of the leadership was.

Mr. MANSFIELD. I think it has been stated.

Mr. KEATING. This question involves a motion to take up a measure. I was not entirely informed as to what was intended for the afternoon. That was the reason for the inquiry.

Mr. MANSFIELD. I apologize to the Senator. He should have been notified, as one of the chief sponsors of the resolution.

Mr. KEATING. I do not feel that way at all; but I do feel that when there is a motion to take up a measure, Senators ought to be able to debate it with reasonable dispatch and come to a decision as to whether or not to take up the measure, and to get on with the consideration of that matter or other matters.

Mr. MANSFIELD. The Senator is as practical a Senator as I am. He knows what *the situation is*. I would never accuse him of being unrealistic. At times I think he is too realistic. I think the situation is understood perfectly on all sides. I hope there will be no objection.

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

Mr. MANSFIELD. I yield.

Mr. CASE. I appreciate the Senator's yielding. I had not intended to discuss this question any more fully than it has been discussed; but inasmuch as the discussion has been quite extended, we might take another moment. What we have been talking about in euphemisms might be described, in a plainer way, realistically. When the majority leader mentioned that the Senator from New York recognized the realities of the situation, he meant to say, and therefore put his imprimatur on the fact, that we are already suffering from a filibuster.

Mr. MANSFIELD. As I understand, *a 2-word filibuster*.

Mr. CASE. A 2-word filibuster, which is extraordinarily effective.

Mr. MANSFIELD. It really has not got underway.

Mr. CASE. How potent an instrument it is that can stop completely action to bring up—not a motion to pass, but a motion to bring up for consideration—a simple resolution. That is all I wanted to demonstrate.

Since the matter has proceeded as far as it has, I wonder if we could have assurance, which has been given to us informally by the majority leader, that so far as he was able, he would see that the matter was brought up before this body for consideration, or on a motion to take up, before the session ended.

Mr. MANSFIELD. I do not know whether it can be done before the session ends. I would not want to be held down too closely. But the leadership will do its best, at an appropriate time, very probably in the next session, to bring this matter up for consideration again. It is growing a little late, in all honesty, to try to bring it up in this session again.

Mr. CASE. This is a little disappointing in view of the understanding the Senator from New Jersey had in a private discussion with the Senators from Montana and Pennsylvania, who had the thought that before the session ended the Senator would try to bring it up again.

Mr. MANSFIELD. If there is a possibility, we will, but it is a long-range possibility. That should be understood.

I respectfully request that Senators leave that responsibility to the leadership. If there is any criticism, we will take it. If there is any credit, we will pass it on.

Mr. CASE. Nobody could be fairer or more sweet or gentle.

ANNOUNCEMENT OF HEARINGS ON WEDNESDAY NEXT ON A BILL TO ESTABLISH A FIRE ISLAND NATIONAL SEASHORE

Mr. BIBLE. Mr. President, will the Senator yield, while the distinguished Senator from New York [Mr. KEATING] is in the Chamber?

Mr. MANSFIELD. I yield.

Mr. BIBLE. Mr. President, I announce that the Public Lands Subcommittee of the Senate Committee on Interior and Insular Affairs will conduct a hearing next Wednesday, December 11, 1963, at 10 a.m., on S. 1365, a bill to establish a Fire Island National Seashore. The hearing will be in room 3110, New House Office Building.

This hearing is for Washington witnesses.

The subcommittee hopes to handle the Fire Island proposal as expeditiously as possible in the second session of the Congress. The hearing next Wednesday is intended to get a general understanding on what is proposed and determine the views of the executive agencies in regard to it.

The subcommittee will schedule hearings in the Fire Island area early next spring when local citizens will be heard. It will not be necessary for the many local citizens who have indicated their interest in this proposal to come to Washington at this time.

I invite the attention of the distinguished junior Senator from New York to that announcement.

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

Mr. BIBLE. I yield, with the permission of the majority leader.

Mr. KEATING. I wish to express my gratitude to the distinguished Senator from Nevada for scheduling these hearings. He has been very helpful in this matter. I sincerely hope that a strong case can be made for this project.

With this announcement coming so close to the previous discussion, I do not want in any way to appear to be acquiescing in the action of the majority leader in not pressing for the consideration of Senate Concurrent Resolution 1 this afternoor. I dissent from that strongly.

Mr. BIBLE. I realize the Senator's keen feeling about it. I thought this announcement would make his weekend much happier.

Mr. KEATING. It has. Now I have something to make me happy, and something to make me sad—which is not unusual at the end of a week in the Senate.

Mr. BIBLE. I now yield to the senior Senator from Colorado [Mr. ALLOTT] with permission of the majority leader.

Mr. ALLOTT. Mr. President, I wish to make inquiry of the distinguished Senator from Nevada, who is chairman of the Public Lands Subcommittee, on which I have the honor to serve as the ranking minority member, as to why it is necessary at this time to have hearings upon this bill. I must confess that I know nothing about it. The reason I propound the question is that I am sure the Senator, and other Senators, are aware that Senators who serve on the Appropriations Committee will be involved either in conference committees or in markups or in hearings on foreign aid appropriations all of next week. It is not that the consideration of one committee is necessarily more important than that of another, but we are all aware that we must get rid of appropriations before we can go home for Christmas.

I have a deep interest in this matter. I have no objection to, and no support for the bill, because I know nothing about it. However, I do object—and I say this deferentially to my fine friend, because both of us came into the Senate together, and we have been friends ever since—to a hearing being scheduled which is so inconsequential as to time during the next week with respect to this matter. It means that some of us cannot be at that hearing.

Mr. BIBLE. The Senator from Colorado recognizes the makeup of the membership of the Public Lands Subcommittee. We always do our best to accommodate every member of the Public Lands Subcommittee. There may be hearings on the foreign aid appropriation bill next week; if so, those hearings will concern, at most, two members of our subcommittee. I am one of them, and the Senator from Colorado is the other member. We must consider many park, lakeshore, and seashore proposals. These days and weeks and months move along rather quickly.

Therefore, I thought it well that we should commence the hearings. I use the word "commence" advisedly, because field hearings have been scheduled for next year. By the time we finish our other commitments, I am sure all of us will have been very busy.

I recognize that it would be desirable to schedule hearings in order to accommodate everyone. I am sorry that this hearing will interfere with another commitment which the Senator from Colorado feels he should keep.

Mr. ALLOTT. It is not another commitment that the Senator from Colorado feels he should keep. I feel a sense of obligation. Every Senator knows that Congress must finish consideration of the appropriation bills before it adjourns. The public works bill must be marked up. There must be action on the conference report on the independent offices appropriations bill. Hearings must be held on the foreign aid bill, and the military construction bill must be brought to the floor.

While my friend from New York may be very much interested in this subject, I cannot conceive, with the importance of the appropriations, how this bill could possibly have any corresponding signifi-

cance. I do not see how it can have enough significance to warrant hearings on it before Senators go home for whatever Christmas recess they will get.

My friend from Nevada has always been kind. He has always been considerate. I do object, however, because certain Senators will not be able to be present to cross-examine witnesses, and to determine the facts. I say this without any idea as to whether I will be in favor of the bill or against it.

Mr. BIBLE. I am sure that we will do the best we can to accommodate the Senator from Colorado. It is not possible to accommodate every Senator. I am sure that the Senator from Colorado inadvertently said that it would be necessary to mark up the public works appropriation bill, because it has already been reported.

Mr. ALLOTT. I did not mean the mark-up of the bill. I meant to say that the public works bill would be on the floor of the Senate. The same is true of the military construction bill.

Mr. BIBLE. Yes. A rather full program is already scheduled for January, February, and March of next year. The schedule is made up even at this early date. We always try to accommodate those who make various requests for a hearing. All I can say to the Senator from Colorado is that we shall do our very best in trying to accommodate all Senators. We shall certainly try to do our best to accommodate the Senator from Colorado. I am sure that he will be ably flanked on his side of the aisle by two very able Members of the Senate who have taken a particularly active part in the field of national parks and national seashores.

I can also assure my friend from Colorado that, if anything develops in the hearing on Wednesday, as a result of the Government witnesses testifying, which he would like to question them further on, we will call them back so that he may do so. A rather full schedule is programed for next year. We are proud of the work we have done on this subcommittee, in turning out our work moderately well, and we shall attempt to continue to do so.

Mr. ALLOTT. I would not have taken this subject up publicly in this way had I had any previous knowledge of it; I would have discussed it with my friend privately. Nevertheless, the question has been raised, and I have made my objection to the meeting. Of course, the chairman has his prerogatives. If anyone thinks that there will be speedy action on the bill, if the subcommittee holds hearings next week, or that there will be action on it before we adjourn this winter, without giving it long and thorough and detailed consideration, he is mistaken. I cannot understand why we should be playing around—that is literally the truth—with such minor bills when so many important matters are pressing at this time.

Mr. BIBLE. If my friend from Colorado had followed my announcement, he would have noted that there was no intention to complete action on the bill in the next 2 weeks. We are simply starting hearings on the bill. There will be hearings on it next year, as I have said. They will be held early next year, early in the spring. Again I must repeat that it is difficult to schedule hearings to accommodate every Member of the Senate. We do the very best we can. That is exactly what the Senator from Nevada has tried to do in this instance.

Mr. ALLOTT. I realize that it is not possible to schedule hearings for the convenience of all Senators. The appropriation bills, which involve so many people, must be taken care of before adjournment. That fact would prevent attendance at the Senator's hearing.

Mr. BIBLE. Both the Senator from Colorado and I are members of the Appropriations Committee. Both of us were able to work on the public lands bill and on the appropriations bill last week. I am confident that we can do exactly the same thing next week.

Mr. KEATING. Mr. President, probably I am more at fault than anyone else in this connection. I should not only have talked with the distinguished Senator from Nevada, but also with the distinguished Senator from Colorado. It should be stated, in fairness to the Senator from Nevada, that I have been "on his neck" trying to have hearings started. The Senator from Nevada has made a commitment to start the hearings, and he is trying to keep that commitment. No one believes that action would be taken on the bill next week. We wish to start the hearings, and to get on the record the position of the Government departments involved in these preliminary hearings. I hope the Senator from Colorado will not be prejudiced against the bill on the sole ground that the Senator from New York, in his zeal to arrange for the hearings, neglected to consult him as well as the Senator from Nevada.

SUSPENSION OF CERTAIN PROVISIONS OF MERCHANT MARINE ACT, 1920, WITH RESPECT TO TRANSPORTATION OF LUMBER

Mr. MANSFIELD. Mr. President, what is the pending business? I have asked unanimous consent that the Senate proceed to the consideration of Calendar No. 546, S. 2100.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill (S. 2100) to continue certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber which had been reported from the Committee on Commerce, with an amendment, on page 1, line 9, after the word "thereof", to strike out " 'The' " and insert " 'During the two-year period which begins on October 24, 1963, the' "; and on page 2, line 6, after the word "occurs", to insert a comma and "and inserting in lieu thereof ', or upon the expiration of the two-year period which begins on October 24, 1963, whichever first occurs' "; 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 section 4 of the Act entitled "An Act to amend section 502 of the Merchant Marine Act, 1936, as amended, and for other purposes", approved October 24, 1962 (76 Stat. 1200), is amended—

(1) in subsection (a), by striking out "During the one-year period which begins on the date of enactment of this Act, the" and inserting in lieu thereof "During the two-year period which begins on October 24, 1963, the"; and

(2) in subsection (b) by striking out ", or upon the expiration of the one-year period which begins on the date of enactment of this Act, whichever first occurs", and inserting in lieu thereof ", or upon the expiration of the two-year period which begins on October 24, 1963, whichever first occurs".

OPPOSITION TO THE HEALTH CARE PLAN

Mr. MILLER. Mr. President, in the December issue of Nation's Business there appears an article entitled "Ex-Cabinet Member Opposes Health Care Plan."

The article is written in question and answer form by former Postmaster General J. Edward Day.

Because of General Day's vast experience in the insurance field, I believe it is particularly interesting that he opposes a form of governmental assistance in the nature of hospitalization or medical care financed by social security.

His answers are based upon a vast amount of personal knowledge, and I believe they merit the attention of all those who are interested in this problem, which probably will come before us during the next session of Congress.

I therefore ask unanimous consent that the article may be printed in the RECORD at this point.

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

EX-CABINET MEMBER OPPOSES HEALTH CARE PLAN

(The year ahead will see a vigorous new drive to win congressional approval of a Federal health care plan tied to social security taxes. A strong opponent of such a plan is J. Edward Day, former Postmaster General, who resigned from the Kennedy cabinet on August 9. While Mr. Day, of course, does not oppose the whole New Frontier program, in this exclusive Nation's Business interview he reveals his alarm that this pet spending project may become law. Mr. Day has extensive experience in the insurance field. He served as legal and legislative assistant to former Gov. Adlai Stevenson, and from 1950 to 1953 was Illinois insurance commissioner. He also served with the Prudential Insurance Co. of America, rising to vice president in charge of operations in 13 Western States. Now practicing law in Washington, he has no insurance connection. But his interest in welfare programs continues.)

Question. Mr. Day, what do you think of the administration's health care plan for the aged under social security?

Answer. It is a program that has tremendous political appeal, but it is extremely difficult for the rank and file of the public—or even for fairly informed Members of Congress—to appreciate the implications of getting into an expensive medical care plan of this type.

Question. How expensive would it be?

Answer. To begin with, we should bear in mind that social security benefits now being paid total over $13 billion a year and it is

estimated that by 1980 just the present program will cost as much as $25 billion a year.

For the health care plan, they talk in terms of more than $1 billion the first year and then going up to $2 billion, without taking into account the inevitable future liberalization of benefits.

In my opinion it is inevitable that once this program is enacted there will be the same pattern of liberalization every couple of years that there has been with the original social security law. These liberalizations are bound to add enormously to the expense and I feel would make the total load of financing the social security program completely out of hand.

The program as outlined in the administration bill contains a great many cost reduction features such as a deductible, which the beneficiary would have to pay before getting Federal payments; time limits on the period in the hospital; limitation of the benefits to people 65 or older; no benefits for surgery or doctors bills, no benefits for drugs.

The reason I am a dedicated Democrat is because I think that the Federal Government should use its resources and its powers to promote the greatest good for the greatest number—but only to the extent it can afford it.

And we have reached the point where we can no longer judge new programs purely on the basis of whether they are desirable. We have to judge them on the basis of whether they are feasible within the budget squeeze and the deficit spending pattern we are up against.

It doesn't make sense to me to have a large Federal deficit in peacetime and in time of prosperity, and I think that this type of new departure in social security commitments may bring on deficits in the future such as we have never even thought of in peacetime before.

Question. Did you have these same views before you became a member of President Kennedy's Cabinet?

Answer. I definitely did. As a result of having been insurance commissioner of Illinois and having a top responsibility in the insurance industry, I became concerned some years ago about the eternal extensions of social security financial commitments.

In early 1960 I expressed in a published article this same type of concern as to the medical care for the aged plan which was pending then, and I have never felt differently about it.

Of course, when I was Postmaster General, the social security program was no part of my direct responsibility. I had plenty of problems of my own to worry about, and while I was in office I, of course, supported in general all of the President's program.

But, as a person with some degree of special knowledge in this area, I have been concerned that there has been so little attention to the two points I am emphasizing here: First, that because of the political appeal of social security liberalizations this health program *is bound to* be extended way beyond what is being proposed now. This is shown by the patterns of the old-age benefits that have been extended many times in the past. It is shown by what has happened to private health insurance plans.

The second thing I think isn't recognized sufficiently is that the tax base for social security comes out of the same payroll check that has to pay for local taxes, for the defense effort, for the space program, and everything else. Just because it is called a payroll tax doesn't mean that it is something that is available above and beyond all our other demands for public revenue.

Question. Mr. Day, you mentioned a pattern of liberalizations in private health insurance. Could you elaborate on this?

Answer. Most private health insurance plans worked out by negotiations with employee groups start out, for example, with a very substantial contribution by the employees to the cost. In each round of bargaining there are efforts, often successful, to get the employees' contribution reduced or entirely eliminated, which greatly increases the cost to the employer.

I think that the precedent of what has happened to the private plans is something that I have not seen discussed in alerting the public and the Congress to the implications of this Federal health program.

Now that sort of thing might happen, too, as your total social security cost increases. We are the only country that has this 50–50 employer-employee participation in paying the cost of our social security plans. There have been suggestions already that a larger proportion of the cost should be loaded on to the employer.

Question. Is there ample private health insurance for people over 65?

Answer. There is plenty of insurance available for people who have the money to pay for it. But I don't think anybody can say there is adequate private health insurance for people who don't have the money to pay for it. Health insurance for old people costs substantial money. And many of the people who would be most in need of medical care are people who would be very poor risks from the insurance point of view because of their poor health.

Question. Do you feel that the introduction of a Federal health care plan changes the basic philosophy of social security?

Answer. It is a distinct departure in that, for the first time, it provides service. Until now the social security program has provided dollars. But this health care plan provides, for example, after the deductible, whatever a semiprivate hospital room costs.

Now we all know that the costs of hospital care have been going up quite markedly in recent years. They have been going up at a faster rate than the cost of living or than average wages.

There is, therefore, a new departure right there in that the Government is taking on an obligation which is not necessarily keyed to the revenue that is coming in.

Assuming $37 a day cost for a semiprivate room, long-term hospital care is a benefit that is very valuable. Then there is a nursing home benefit that can follow that, and home visits besides. That would be a very generous private insurance plan and the premium would be substantial.

If we could afford it, this is a program with a great deal of human appeal. But there are many things that have great human appeal which we simply can't afford to do in view of our Federal budget crisis, which is tied in with our balance-of-payments gap and our pressing needs for urgent purposes such as defense.

Question. Would the addition of health care endanger the rest of the social security structure?

Answer. I don't think it will endanger it in the sense that it will cause any part of social security to be discontinued, but one of the big troubles is that people are inclined to think because social security is financed by a payroll tax that it has some separate source of financing from the rest of Government activities.

There is only 100 percent of the Nation's payroll available as a source of tax revenue for Federal Government, State government and local government, and as the percentage of the payroll tax continues to go up, as is already scheduled and in the law now on the books, that increases the total tax load.

The social security plan is often mistakenly thought of as an insurance plan, but it is in fact a pay-as-you-go plan. The present trust fund would pay only the benefits now being paid for about a year and a half. So it is in no way comparable to the reserves that are held by an insurance company to pay pension benefits.

As the benefits are liberalized they have to be taken care of on a pay-as-you-go basis by either increasing the tax take at the present time from increased payroll taxes or else going through the pretense of keeping the payroll tax low but paying for it out of general revenues. But in either case it comes out of people's incomes.

The President has stated in connection with his support of the tax cut bill that he intends to take every feasible step to keep down spending and to avoid having the tax reduction cause a long-term increase in the deficit.

But an obligation such as is taken on by a new social security benefit is an obligation for all time.

Question. Isn't the disability portion of the social security fund in danger of running out of money?

Answer. Yes; the disability fund—which is a separate trust fund—is running lower than predictions, and Representative WILBUR MILLS, chairman of the House Ways and Means Committee, has already been proposing that the taxable wage base be increased for the purpose of supporting that trust fund.

The very same proposal for practically the same amount in the taxable wage base is part of the administration's proposal for financing the health benefit. And you can't finance both things from the same source.

What has happened to the disability benefit is a glaring example of what I am talking about. It was started only in 1956, and at that time was available only to disabled people who were 50 years old or older. In just the short time since then, that age floor has already been taken out and it is available to anyone of any age.

I feel absolutely certain that the health care program, even though it starts out at 65, would inevitably be extended before long to all people receiving social security benefits, which include many dependents under 65. It would be lowered as far as the actual principal beneficiaries are concerned to lower ages, and probably eventually the age limit would be off entirely. The financial implications of that are incredible.

Question. Do you have any specifics as to financial implications?

Answer. The medical care plan which is being proposed by the administration is similar to a plan that was proposed for several years by Representative Aime Forand. Known as the Forand bill, it would have provided the hospital benefits to anyone receiving social security benefits, including dependents, and it was estimated that in just 10 years the Forand bill would be costing $8 billion a year.

Question. Would it be likely that the health plan would be broadened to pay for even more of the cost of people's sicknesses?

Answer. Definitely yes. It has been customary in private health insurance plans, no matter how modest a scale they started on, to extend them to cover surgical and medical benefits. There is no surgical benefit in this plan at all.

There is also a tendency to extend them to drug benefits. There is no provision for providing drugs except as they might be an incidental part of the hospital care.

We are all familiar with the controversies they have had in England over paying for false teeth and for wigs, but these aren't ridiculous items at all as far as what is probable in extending this plan.

Many private health insurance plans as a result of many rounds of negotiations now include psychiatric care. If you begin getting that sort of thing into a publicly financed plan the sky is the limit as to what it might cost.

This matter of the deductibles is something I feel is likely to last a very short time if the bill passes because there will be highly publicized cases of individuals who are not

able to come up with that $50 or $75 or something of that kind.

The same thing is true on the time limits on the stay in the hospital. People may be glad to have any benefit at all at the start, but when you have highly publicized cases of people who have to be moved out of the semiprivate rooms that they are entitled to under the bill, have to be moved out because they are sick longer than their benefit lasts, there will be demands that those time limits be extended or eliminated.

Question. How do you account for the fact that the social security program is liberalized so frequently and so consistently?

Answer. To begin with, it is a bipartisan type of phenomena. It is done both in Republican and Democratic administrations. I think it is because people are getting an immediate benefit which is, in fact, going to be paid for later.

Question. Are the social security trust funds in danger of going bankrupt on the basis of the tax structures that are programed now?

Answer. They are not in danger of going bankrupt in any sense that should be a matter of concern to the participants. There is no reason for anyone to be panicky about receiving his future social security benefits. But the trust funds are very small in relation to the obligations that have been incurred.

If you take the total amount of obligations that are already incurred for social security payments and subtract from those the amount of revenue which is to come in from payroll taxes now provided for there is a deficiency of over $300 billion.

Now if it was an insurance operation you would say that the reserve fund was short by more than $300 billion.

But because of the fact that social security is supported by the general revenues of the Government and they are bound to provide the revenues to pay for it, the danger is not that people won't get their benefits; the danger is that this is another enormous commitment which is competing for the already overloaded Federal budget.

Question. Mr. Day, you used the term "budget crisis." What do you mean by that?

Answer. I think that the Federal Government has reached the point where we must consider whether we have borrowing leeway in large amounts in the event we need it for genuine emergencies such as war or a major depression. We all hope and expect that neither one will take place. But back in the 1930's when we went into a deficit spending program to try to do something about crushing unemployment we had a relatively small Federal debt.

Now we have the Federal debt up to a level where it is really questionable whether we have unlimited borrowing leeway that we have had in the past in times of crisis.

I consider it is crisis when the Federal deficit is running at $6 or $7 billion a year in times of relative peace, as much peace as we have known since World War II.

The fact that the deficit is continuing as high as it is in peacetime I don't think can be explained away by thinking that we are going to reach some point in a few years when our problems will be over and we won't need all this Federal money. There is no indication that there is going to be a sudden end to the cold war, and almost all of the commitments that the Federal Government has are of a type that continue to grow automatically.

So, I think that we have come to the point long since where we should stop thinking in terms of whether these things are desirable from a human point of view, and make the same hard decisions that city and State and county governments have had to make for years.

They generally cannot borrow money without a vote of the public on a bond issue, and as a result they have to get along with services, with facilities that are less than what it would be nice to have.

One of the odd results is that we are constantly told that cities and States and counties can't afford to do certain things such as pay for rapid transit systems, but that the Federal Government can.

In my opinion it is least able of all to pay for them because it is living strictly on borrowed money, and there is no firm program for paying off that debt.

WHAT HEALTH SCHEME WOULD AND WOULDN'T DO

Here are the major features of the health care program now pending in Congress:

Eligibility: Anybody 65 or over could be eligible, including more than 1 million persons covered by social security but not drawing it because they are making too much money. Also included: about 2.5 million aged not covered by social security.

Services: Bed and board, nursing care, drugs, diagnostic and therapeutic work, and doctors' services while in the hospital and out-patient diagnostic services; nursing care, bed and board, medical services and medicines while in nursing home; part-time nursing care in the patient's home.

Choices: Patient would have choice of three plans ranging from 45 days in hospital or nursing home at no cost to 180 days of hospital and nursing care but with the patient paying about $92 toward his care.

Once chosen, the plan could not be changed.

How financed: Both the social security taxable wage base and the tax rate would be raised. The tax would go up another one-half of 1 percent of $5,200 on employers and employees and four-tenths of 1 percent on self-employed.

Services not covered: The proposed legislation would not pay for surgery, doctors' bills, private nurses, drugs, or medicines outside hospital or nursing home, or dental or psychiatric care.

DESIGNATION OF DECEMBER 17 EACH YEAR AS WRIGHT BROTHERS DAY

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 124.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The LEGISLATIVE CLERK. A joint resolution (S.J. Res. 124) designating the 17th day of December of each year as Wright Brothers Day.

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

There being no objection, the joint resolution (S.J. Res. 124) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the 17th day of December of each year is hereby designated as "Wright Brothers Day", in commemoration of the first successful flights in a heavier than air, mechanically propelled airplane, which were made by Orville and Wilbur Wright on December 17, 1903, near Kitty Hawk, North Carolina. The President is authorized and requested to issue annually a proclamation inviting the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the joint resolution.

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

SUSPENSION OF CERTAIN PROVISIONS OF MERCHANT MARINE ACT, 1920, WITH RESPECT TO TRANSPORTATION OF LUMBER

The Senate resumed the consideration of the bill (S. 2100) to continue certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber.

Mr. MAGNUSON. Mr. President, S. 2100 would extend the law now in existence with respect to shipments by foreign-flag cargo carriers to the Commonwealth of Puerto Rico. For the past year, the law has provided that the Secretary of Commerce may, upon certain terms and conditions, allow such shipments of goods to the Commonwealth of Puerto Rico. The main reason for the exception to the law is that no American cargo carriers, prior to the enactment of the bill last year, expressed any interest in the shipment of goods to Puerto Rico, particularly lumber, as one item, although the bill includes all types of shipments. Congress allowed the Secretary of Commerce, under certain conditions, to permit other bottoms to transport lumber destined for the Commonwealth of Puerto Rico. The bill merely extends the present law for 2 years.

The departments are in agreement concerning the bill. For the purpose of further explanation, I ask unanimous consent that the committee report be printed in the RECORD in full, including the views of the departments and others.

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

The report (Rept. No. 568) was ordered to be printed in the RECORD, as follows:

SENATE REPORT NO. 568 TOGETHER WITH MINORITY VIEWS

(To accompany S. 2100)

The Committee on Commerce, to whom was referred the bill (S. 2100) to continue certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

THE AMENDMENTS

Page 1, line 9, strike out "The" and insert in lieu thereof "During the two-year period which begins on October 24, 1963, the".

Page 2, line 4, before the period, insert ", and inserting in lieu thereof ', or upon the expiration of the two-year period which begins on October 24, 1963, whichever first occurs' ".

Amend the title to read as follows:

"A bill to continue for a certain period certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber."

PURPOSE OF THE BILL

S. 2100, as reported with amendments, would continue for 2 years, from October 24, 1963, the current temporary authority of the

Secretary of Commerce (which would otherwise expire on October 23, 1963) to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber to the Commonwealth of Puerto Rico from any ports or terminal areas in the United States whenever he determines, after notice and opportunity for hearing, that there is no domestic vessel reasonably available to serve such ports or terminal areas for the transportation of such lumber. Section 4 of the act of October 24, 1962 (76 Stat. 1200), which S. 2100 would amend, provides that the Secretary's determination of nonavailability of domestic vessels shall be made within 45 days after application for suspension, that it shall be final and conclusive, and that he shall establish such terms, conditions, and regulations with respect to operations under such suspension as he determines to be in the national interest. The act of October 24, 1962, as now proposed to be amended, would further provide that any suspension under its provisions shall terminate whenever the Secretary of Commerce determines that conditions required for such suspension no longer exist, or upon the termination of the 2-year period beginning October 24, 1963, whichever first occurs. The provision of the act of October 24, 1962, that S. 2100 would not amend, provides that no Federal laws shall apply to any water carrier because of operations under a suspension provided for in that act if such laws did not apply to such carrier prior to such suspension.

DISCUSSION OF THE BILL

The amendment incorporated in Public Law 877 of the 87th Congress, to permit suspension of the provisions of section 27 of the Merchant Marine Act, 1920, with respect to shipments of lumber to Puerto Rico in other than U.S.-flag vessels, marked the culmination of a long series of discussions and public hearings aimed at improving depressed conditions in the great softwood lumber industry of the northwestern States.

Due to a number of causes, among which domestic shipping costs ranked high, the industry had seen its onetime domination of the Atlantic coast-Puerto Rico market whittled down year by year, over a period of little more than a decade, to practical extinction. In 1951 the Washington-Oregon area supplied 92 percent of Puerto Rico's lumber needs. Inroads by Canadian producers cut that percentage successively, and by 1962 Canada had taken over the market completely. Meanwhile Puerto Rican requirements had tripled and quadrupled to 73 million board feet, all being obtained from Canada.

To meet this situation, the Committee on Commerce held numerous hearings, here and in the States of Washington, Oregon, and Idaho, over a 3-month period in the spring of 1962. Many remedies were discussed, some were attempted, and at least one was achieved; namely, the elimination of the 15-day freehold privilege permitted Canadian lumber shippers by the Canadian railroads but denied to American lumber shippers. Ocean shipping costs however were still a massive obstacle which, in addition to high stumpage costs and other burdens, blocked most efforts of the Northwest producers to compete for the Puerto Rican market.

Enactment of Public Law 877 brought results sufficient to indicate the real possibilities of the Puerto Rican market if the burden of high ocean freight rates was equalized vis-a-vis Canada. In spite of the several months required for Commerce to work out rules and procedures, the time necessary for filing of applications for suspension and ensuing hearings, and approach of the October suspension termination date making operators wary of placing orders that might not be delivered, in the less than 6 months between February 7 and July 19 more than 5 million board feet were shipped from Washington-Oregon ports. That was 5 million feet that would not have been shipped if the Jones Act provisions had not been suspended, and 5 million feet more than were shipped in 1962. Actually, it was the largest total of west coast shipments to Puerto Rico since 1956.

The witness of the leading shipping association testified at the hearing that, to the best of his knowledge "no one has genuinely been hurt among the carriers * * * the truth of the matter is that * * * no U.S.-flag operator, operating with his present equipment, can outquote the foreign-flag operator, considering his costs and the status of his equipment."

Witnesses from west coast ports and mills are confident that extension of the suspension would make possible more thorough penetration of this once-rich Puerto Rican market, and the committee is similarly confident that the results achieved in the abbreviated period of selling activity give promise of much greater returns in the 2-year period the bill now proposes. The results achieved have not only made a welcome dent in unemployment in this important industry, but the psychological effect has been most salutary throughout the whole Northwest area.

Representatives of shipping associations and of maritime labor opposed enactment of S. 2100, on the ground that it would further breach the 1920 statute provisions which reserve the domestic trade to vessels built in U.S. shipyards and owned by citizens of the United States.

The Department of Commerce, through its General Counsel, Robert E. Giles, recommended enactment if the bill were amended to provide for a 2-year extension. The Department report stated:

"Suspension of the provisions of section 27 of the Merchant Marine Act of 1920, with respect to lumber shipments to Puerto Rico, appears to be necessary if Pacific coast lumber is to have any place in the Puerto Rican market. * * * In view of the effect on west coast lumber shipments resulting from section 4 of Public Law 87-877, it would appear desirable that a thorough reappraisal be made during the next 2 years of the effect of the Jones Act on the present state of the U.S. merchant marine and the domestic economy generally."

AGENCY COMMENTS

Reports from the agencies and departments follow:

GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE,
Washington, D.C., September 20, 1963.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of the Department of Commerce concerning S. 2100, a bill to continue certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber.

S. 2100 would provide an indefinite extension of section 4 of Public Law 87-877. Section 4 authorizes the Secretary of Commerce to waive, under certain circumstances the provisions of section 27 of the Merchant Marine Act of 1920 which require lumber shipped from the United States to Puerto Rico to be carried in U.S. built and owned vessels. Section 4 is now scheduled to expire October 23, 1963.

The Department of Commerce recommends enactment of S. 2100 if amended to provide for a 2-year extension of section 4.

Since enactment of section 4 there has been a resumption of shipments of lumber from the U.S. west coast to Puerto Rico. According to our information waterborne shipments of lumber from the west coast to Puerto Rico, since enactment of section 4, have totaled approximately 5.5 million board feet. For the same period of 1961-62, there were no such shipments.

It is clear that the Canadian competitors of the domestic lumber industry enjoy many advantages other than those relative to shipping costs with the result that they are able to market lumber at a lesser cost than U.S. producers. It appears that steps must be taken to improve the position of U.S. producers with respect to their Canadian counterparts in matters other than ocean shipping costs if domestic lumber is to be fully competitive. Until such time as these improvements are achieved, suspension of the provisions of section 27 of the Merchant Marine Act of 1920, with respect to lumber shipments to Puerto Rico, appears to be necessary if Pacific coast lumber is to have any place in the Puerto Rican market. However, when equality is achieved on other costs, the American producers should be in a better position to meet competition while utilizing U.S.-flag ships to transport the cargo as would be required in the absence of section 4 of Public Law 87-877.

We believe, therefore, that it would be undesirable to provide for indefinite suspension of section 27 as S. 2100 proposes. A 2-year extension of the present suspension would enable the Pacific coast producers to continue to compete in the Puerto Rican market and would assure reexamination of the entire situation after a suitable period.

It should be noted that under the procedures established by the Secretary of Commerce in administering section 4, American-flag carriers are given full opportunity on a first referral basis to handle all lumber shipments from the United States to Puerto Rico, if their shipping rates are competitive with foreign carriers. We believe that these procedures assure that due regard is given to all domestic interests involved.

In view of the effect on west coast lumber shipments resulting from section 4 of Public Law 87-877, it would appear desirable that a thorough reappraisal be made during the next 2 years of the effect of the Jones Act on the present state of the U.S. merchant marine and the domestic economy generally.

For the foregoing reasons the Department does not believe that it would be desirable to provide an indefinite extension of section 4 of Public Law 87-877 and recommends that S. 2100 be modified to provide for a 2-year extension of that section.

The Bureau of the Budget has advised that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

DEPARTMENT OF JUSTICE,
Washington, D.C., September 20, 1963.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 2100, a bill to continue certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber.

This bill has been examined, but since its subject matter does not directly affect the activities of the Department of Justice, we would prefer not to offer any comment concerning it.

Sincerely yours,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

WASHINGTON, D.C.,
September 10, 1963.

B–148057.
Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Further reference is made to your letter of August 29, 1963, acknowledged on September 3, requesting the comments of the General Accounting Office concerning S. 2100, 88th Congress, 1st session, entitled "A bill to continue certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber."

We have no special information or knowledge as to the desirability of the proposed legislation and, therefore, we make no recommendation with respect to its enactment.

Sincerely yours,
JOSEPH CAMPBELL,
Comptroller General of the United States.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

Public Law 87–877
87th Congress, H.R. 11586
October 24, 1962

* * * * *

SEC. 4. (a) [During the one-year period which begins on the date of enactment of this Act, the] *During the two-year period which begins on October 24, 1963, the* provisions of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) shall be suspended with respect to the transportation of lumber to the Commonwealth of Puerto Rico from any ports or terminal areas in the United States whenever the Secretary of Commerce, after notice and opportunity for hearing, determines that there is no domestic vessel reasonably available to serve between such ports or terminal areas for the transportation of such lumber. Such determination shall be made within 45 days after application for suspension and shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such determination. Upon making the determination provided for in this section, the Secretary of Commerce shall establish such terms, conditions, and regulations with respect to operations under such suspension as he determines to be in the national interest.

(b) Any suspension under the provisions of this Act shall terminate whenever the Secretary of Commerce determines that conditions required in the subsection (a) of this section for such suspension no longer exist [, or upon the expiration of the one-year period which begins on the date of enactment of this Act, whichever first occurs], *or upon the expiration of this two-year period which begins on October 24, 1963, whichever first occurs.*

(c) No Federal laws shall apply to any water carrier because of operations under a suspension provided for in this Act if such laws did not apply to such carrier prior to such suspension.

MINORITY VIEWS OF SENATOR BEALL

I am opposed to S. 2100, because it represents another effort to weaken the Jones Act. In 1920, the Jones Act was passed to protect domestic shipping by requiring that only U.S. vessels be used in the trade between U.S. ports and territories. Since that time, our domestic shipping fleet has declined. Enactment of S. 2100 can only bring further hardship to our domestic shipping industry. Each year, Congress is asked to approve various suspensions of the Jones Act. If we approve a suspension with respect to lumber, there will be little justification for opposing similar treatment for other commodities.

Much has been said in Congress regarding the need for strengthening our domestic shipping fleet. This legislation is in direct conflict with our domestic needs and should not be approved.

MINORITY VIEWS OF SENATOR THURMOND

S. 2100 provides for a 2-year extension of section 4 of Public Law 87–877 which authorizes the Secretary of Commerce to waive, under certain circumstances, the provisions of section 27 of the Merchant Marine Act of 1920. The Merchant Marine Act of 1920, commonly referred to as the Jones Act, requires shipments between two domestic ports to be made in U.S. built and owned vessels. This exemption would allow shipments of lumber between domestic ports and Puerto Rico in foreign vessels. I opposed Public Law 87–877 when it was originally enacted, and I am opposed to any extension of this exemption.

The merchant marine industry in the United States is perhaps the most heavily subsidized segment of our entire economy. The industry suffers from innumerable economic difficulties, including high wage costs, construction costs, and other operating expenses. The Jones Act was adopted for the purpose of assuring to the domestic industry all the waterborne traffic between domestic ports. It has served a very useful purpose and should not be subject to waiver except under the most unusual circumstances. I do not believe that the circumstances in this case warrant the perpetuation of this rupture in the laws relating to coastwise shipping which our domestic carriers now rely upon and must rely upon in the future.

During the year since the adoption of Public Law 87–877, waterborne shipments of lumber from the west coast to Puerto Rico have totaled approximately 5.5 million board feet. These shipments were made in foreign vessels and comprise approximately two shiploads of lumber. This small quantity does not justify an extension of this exemption.

I am well aware of the difficulties which are facing our lumber industry in the United States. I am sympathetic to any suggestion designed to bring about meaningful remedies to their economic difficulties. However, I feel that the transportation costs are but one small factor to be considered. Canadian lumber producers have the advantage of lower stumpage costs, lower wage costs, and generally lower operating expenses than do our domestic lumber producers. In attempting to remedy the problem of transportation costs in this manner, I fear that we are creating an even greater problem in our maritime industry. There is evidence that the delivered price of American lumber to Puerto Rico, even with the advantage of low-cost shipping, is not competitive with Canadian prices due to these other factors.

This exemption could be the first step toward a further waiver of the Jones Act between domestic ports on the west coast and ports on the east coast. If this were cited as a precedent and the further exemption approved, southern and southeastern lumber producers would be placed in dire economic straits. They would be unable to meet the competition from west coast shipping, having the advantage of low transportation costs. Congress would be continuing a dangerous precedent to extend this exemption, and therefore should reject S. 2100.

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

Mr. MAGNUSON. I yield.

Mr. BARTLETT. I notice that the report contains the endorsements of the Department of Commerce, the Department of Justice, and the Comptroller General, without their making any recommendations one way or the other.

Because the report has been ordered to be printed, I should like to say that I have received, under date of October 31, 1963, a copy of a letter sent by Charles S. Murphy, Acting Secretary of the Department of Agriculture, to the chairman of the Committee on Commerce [Mr. MAGNUSON], who has just explained the purpose of the bill. The letter endorses the proposed 2-year extension of the act. So the Government departments and agencies are unanimously in support of the bill.

Mr. President, I ask unanimous consent that the letter of Mr. Murphy be printed at this point in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 31, 1963.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request of August 29, 1963, for the Department's comments on S. 2100, a bill "To continue certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber.

S. 2100 would make permanent the temporary authority of the Secretary of Commerce to permit the use of foreign vessels in the transportation of lumber from ports or terminal areas in the United States to the Commonwealth of Puerto Rico whenever he determines there is no domestic vessel reasonably available to serve between such ports or terminal areas for the transportation of lumber. Enactment of this measure would permit lumber shippers in the States of Washington and Oregon, for example, to ship to Puerto Rico under essentially the same conditions as now enjoyed by shippers in British Columbia. It would thus help to insure conditions of reasonable competition within the lumber industry of the United States and Canada.

This Department favors the objective of the bill, and we concur in the recommendation of the Department of Commerce that the present legislation be extended for 2 years.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,
CHARLES S. MURPHY,
Acting Secretary.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

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 was ordered to be engrossed for a third reading, and was read the third time.

Mr. MAGNUSON. Mr. President, I understand the distinguished Senator from South Carolina [Mr. THURMOND] desires to make some remarks about the bill.

Mr. THURMOND. Mr. President, I am opposed to the enactment of S. 2100,

which is designed to continue the authority of the Secretary of Commerce to suspend the provisions of the Jones Act with respect to the transportation of lumber to Puerto Rico. The original 1-year exemption authority was enacted in 1962 and expired on October 24 of this year. S. 2100 would continue for 2 years this very bad precedent of allowing an exception to our coastwise shipping laws and regulations.

The testimony on S. 2100 reveals that the previous 1-year exemption authority did not prove to be as useful to the lumber industry as had been anticipated. Also, the enactment of this measure would bring about the possibility of irreparable harm to our domestic maritime industry.

Mr. President, this measure constitutes a first foot in the door for an exemption authority for lumber shipments in foreign bottoms from the west coast to the east coast. The Jones Act presently prevents shipping from one port in the United States to another port in the United States in other than a domestic vessel. Earlier this year, the Senate Commerce Committee held a series of three hearings in the South inquiring into the economic conditions of the southern lumber industry. Without exception, all the witnesses who testified in these hearings were opposed to exceptions of the Jones Act for either Puerto Rico or for eastern seaboard ports with regard to shipments of lumber. If a further exemption were allowed, using this measure as a precedent for such an act, the southern lumber industry would suffer dire economic injury.

There is little or no chance of this measure being approved by the House of Representatives, especially this year. Since the previous 1-year exemption expired on October 24 of this year, I believe that it would be a useless act for the Senate to give its approval to S. 2100.

Mr. President, I ask unanimous consent to have my minority views as contained in the Senate Commerce Committee report on S. 2100 printed at this point in the RECORD.

There being no objection, the minority views of Senator THURMOND (Rept. No. 568) were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATOR THURMOND

S. 2100 provides for a 2-year extension of section 4 of Public Law 87–877 which authorizes the Secretary of Commerce to waive, under certain circumstances, the provisions of section 27 of the Merchant Marine Act of 1920. The Merchant Marine Act of 1920, commonly referred to as the Jones Act, requires shipments between two domestic ports to be made in U.S. built and owned vessels. This exemption would allow shipments of lumber between domestic ports and Puerto Rico in foreign vessels. I opposed Public Law 87–877 when it was originally enacted, and I am opposed to any extension of this exemption.

The merchant marine industry in the United States is perhaps the most heavily subsidized segment of our entire economy. The industry suffers from innumerable economic difficulties, including high wage costs, construction costs, and other operating expenses. The Jones Act was adopted for the purpose of assuring to the domestic industry all the waterborne traffic between domestic ports. It has served a very useful purpose and should not be subject to waiver except under the most unusual circumstances. I do not believe that the circumstances in this case warrant the perpetuation of this rupture in the laws relating to coastwise shipping which our domestic carriers now rely upon and must rely upon in the future.

During the year since the adoption of Public Law 87–877, waterborne shipments of lumber from the west coast to Puerto Rico have totaled approximately 5.5 million board feet. These shipments were made in foreign vessels and comprise approximately two shiploads of lumber. This small quantity does not justify an extension of this exemption.

I am well aware of the difficulties which are facing our lumber industry in the United States. I am sympathetic to any suggestion designed to bring about meaningful remedies to their economic difficulties. However, I feel that the transportation costs are but one small factor to be considered. Canadian lumber producers have the advantage of lower stumpage costs, lower wage costs, and generally lower operating expenses than do our domestic lumber producers. In attempting to remedy the problem of transportation costs in this manner, I fear that we are creating an even greater problem in our maritime industry. There is evidence that the delivered price of American lumber to Puerto Rico, even with the advantage of low-cost shipping, is not competitive with Canadian prices due to these other factors.

This exemption could be the first step toward a further waiver of the Jones Act between domestic ports on the west coast and ports on the east coast. If this were cited as a precedent and the further exemption approved, southern and southeastern lumber producers would be placed in dire economic straits. They would be unable to meet the competition from west coast shipping, having the advantage of low transportation costs. Congress would be continuing a dangerous precedent to extend this exemption, and therefore should reject S. 2100.

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article entitled "Dark Days for the Merchant Fleet," written by Helen Delich Bentley and published in the Baltimore Sun of October 14, 1963.

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

DARK DAYS FOR THE MERCHANT FLEET

(By Helen Delich Bentley)

The future of the remnants of the domestic shipping fleet literally hangs by a thread. A bill now pending in Congress could wipe it out, although the bill's supporters would deny this.

Introduced by Senator NEUBERGER, Democrat, of Oregon, the bill would permit on a permanent basis the free movement of lumber from the United States to Puerto Rico aboard foreign-flag ships. If that is enacted, the maritime industry feels it is useless even to try to apply the Jones Act any longer. The Jones Act was passed in 1920 to protect domestic shipping by permitting only American-flag ships to carry cargoes between American ports and from the States to territories such as Puerto Rico and the Virgin Islands.

The effect of the Jones Act was weakened last year when Senator NEUBERGER squeezed through a provision that lumber could move to Puerto Rico on foreign-flag ships for a 1-year period if American ships could not meet the low freight rate of the foreign vessels. The pending legislation has no proviso which would give American ships an opportunity even to express a desire for the lumber.

Ironically, American ships which have been converted abroad, but which are still operated under the American flag and manned by American seamen cannot compete against the foreign vessels because the Jones Act excluded them from the domestic trade.

Yet these are the only American ships—primarily bulk type carriers—which could approach the low freight rates of the foreign ships, which are built abroad, registered abroad, and manned by foreign seamen.

Once the lumber industry breaks completely through the Jones Act with the "free movement" doctrine, then the orange, steel, chemical, and oil companies are going to fight for their rights. Who can say that the lumber industry should have any more preference than the others?

Shipping circles feel strongly that the administration is selling the American domestic service short—or "cannibalizing" it—in behalf of the lumber industry because of the power in Congress of the Pacific Northwest congressional delegation.

The same shipping groups point out that many of the lumbermen who are screaming that they cannot compete against Canadian lumber which moves in foreign bottoms are stockholders and part owners of many of the same Canadian lumber concerns. In other words they are competing against themselves and the domestic fleet is being sacrificed—that is the feeling in the maritime world.

Although the railroads seemingly would support any attack against the domestic shipping lines, they may well beware of some of the far-reaching implications. Competition against American-flag water transportation has been stiff and the railroads have complained. But what will it be if lower cost foreign ships are given a wide open field in which to operate?

Great concern has been expressed by many responsible sources about the decline—from 700 ships before World War II to less than 100 today—of the domestic fleet, but thus far only negative action has taken place.

When he was running for the Presidency, the then Senator Kennedy wrote: "The depressed condition of our country's once-flourishing domestic shipping industry should be a matter of deepest concern to everyone interested in our country's economic progress and national security. Unless strong measures are taken, promptly, to preserve and strengthen the dry cargo fleet now operating coastwise and intercoastal, one of the great bulwarks of our Nation's defense may soon be a thing of the past."

Since that letter was written in 1960, at least eight domestic—intercoastal, coastwise, and offshore—steamship lines have suspended. Only seven are left.

Summarizing in his letter, Mr. Kennedy wrote: "If the domestic merchant fleet, so strategic to the Nation's economy and to its defense, is to be kept alive—and it must be—Government must lend a hand. Steps must be taken to insure fair treatment of domestic shipping vis-a-vis other forms of transportation. Beyond that Government has real and long neglected responsibility to assist in the formulation of a rational overall transportation policy in which intercoastal transport has a vital position."

Among the problems cited by the "deceased" lines as they went out of business was that of rates—that they were unable to get rate increases approved fast enough by the Federal agencies.

At the Propeller Club Convention held in Baltimore last week, former Senator John Marshall Butler, who was considered outstanding in his contributions to maritime legislation while serving on the Senate Commerce Committee, spoke on "Domestic Water Transportation and the National Interest."

He said among other things, "Unless something is done about the ratemaking situation, a rejuvenation of domestic water shipping would be impossible, according to the experts, even if the cost of the ships were zero. It is in the area of ratemaking, on a wholly coordinated national transportation basis, that Under Secretary Roosevelt and his associates may find the real solution."

Most—if not all—of the remaining segments of the domestic shipping industry have filed for rate increases to compensate for increased costs. Some of these cases have been pending before the Federal Maritime Commission for a year—some even longer. The length of time it takes the Commission to act on a rate petition has been disturbing to the shipping industry for some time because of the mounting losses in the interim. Some lines have collapsed altogether while waiting.

Some shipping people have suggested subsidizing the domestic industry. Subsidy payments would support both the construction of new vessels and their operation. Matson Navigation Co., the biggest domestic nonsubsidized line, has taken a neutral stand on the issue of subsidy for its Hawaii freight trade. In a memorandum issued some time ago on this subject, the company said:

"As the principal carrier in the trade, it is Matson's fundamental responsibility to keep the total cost of moving Hawaii's commerce at the lowest possible level consistent with the maintenance of adequate service and a fair return to the stockholders on their investment in Matson. This responsibility does not include the determination of who is to pay this cost.

"Under the present system, the users of the service pay directly for it through freight charges. This is the normal way of doing business. Under a subsidy arrangement, part of the cost would be shifted, either to the taxpayers of the State or the Nation. Whether or not the cost burden should be shifted is a matter of public policy, to be decided by the public and those appointed or elected to serve the public interest."

More recently, Matson has said that if it could get its requested freight rate, the rate of return would put it on solid operating grounds now—without any subsidy of any kind.

Alcoa Steamship Co. has requested a freight rate boost to Puerto Rico and the Virgin Islands and emphasized that it was urgent. That was nearly 18 months ago. The plea is still pending.

Another bill even bolder than the Neuberger proposal and now before Congress would permit foreign-built ships to be used generally on the domestic routes. Mr. Butler referred to this as obtaining ships from "bargain basement shipyards in foreign countries. This is another artifice of inert expediency, unworthy of those who resort to it."

If the argument is that lower cost foreign procurement should replace domestic shipping, he said, "you might as well suggest that we import lower salaried legislators from West Germany, Japan, France, or wherever, to sit in the Congress of the United States and enact laws to bring about the complete demise of all of U.S. industry."

"This type of attitude, if not nipped in the bud, could pollinate or be catching—and might even lead to the demise of our merchant marine completely or to the demise of the domestic, legal profession—or what have you. Where then would we be with the balance-of-payments problem? Where would they find [the shipping quota] of the 35 million new jobs which the Department of Labor has warned our economy must create in the next decade?"

The Senator blamed both Republican and Democratic administrations for the sad plight of the domestic merchant marine today. Many agree that the weakness of the domestic merchant marine doesn't trace to the Jones Act, but to long-continued default of suitable action, leadership, and coordination within the responsible—the executive—agencies of the National Government. No administration has made a real attempt to salvage any segment of the domestic shipping industry.

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement by the distinguished senior Senator from Maryland [Mr. BEALL] in opposition to S. 2100.

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

STATEMENT BY SENATOR J. GLENN BEALL IN OPPOSITION TO S. 2100

S. 2100 would extend for 2 years the authority of the Secretary of Commerce to waive the provisions of the Jones Act with respect to the shipment of lumber to Puerto Rico. In this way, we are asked to assist the lumber industry by means of a device which penalizes the merchant marine industry.

I sympathize with the difficulties facing our domestic lumber industry. But, I am even more concerned over the weak condition of our domestic shipping fleet. Before World War II, our domestic fleet numbered 700 vessels. Today, this number has dwindled to less than 100. This decline of our shipping industry has been a matter of concern to Congress for some time. I am pleased that the chairman of the Senate Commerce Committee has been most sensitive to the need for action in this field.

Yet we are asked today to grant a preference to foreign vessels in the shipment of lumber. I am unable to understand the wisdom of this course of action. There are many domestic commodities which must meet foreign competition. In each case, wage differentials and other cost factors place the American product at a disadvantage. On what basis are we to deny Jones Act exemptions to these products if we approve S. 2100?

And make no mistake about it—there will be other requests for exemptions.

I sincerely believe that section 27 of the Merchant Marine Act of 1920 is essential to the maintenance of our domestic fleet. Certainly, the Jones Act is not a cure-all. It is but one means of assuring that we will not lose all evidence of a domestic fleet.

International trade developments in recent years have brought difficulties to many domestic industries. The future will probably bring additional problems of competition. These problems are not going to be solved by helping one industry to the detriment of another.

I oppose S. 2100 just as I intend to oppose any other requests for exemptions under the Jones Act.

Mr. THURMOND. Mr. President, in view of the statement I have made, the article that substantiates that statement, and my minority views, which are a part of my statement, I feel it is not in the best interests of the American maritime industry or of the country as a whole that S. 2100 be passed.

Mrs. NEUBERGER. Mr. President, in early March of this year a cargo vessel docked at the port of San Juan, Puerto Rico, to discharge 1,400,000 board feet of Douglas-fir and hemlock lumber—lumber from Oregon forests—lumber cruised, logged, hauled, sawed, and loaded by Oregon lumbermen.

This event would have raised little interest a decade ago when Oregon, California, and Washington forests supplied the entire Puerto Rican market for northwest softwood. Yet, the cargo discharged in March 1963 was the first shipload of Northwest U.S. lumber to Puerto Rico in over 2 years.

This shipload, and others that followed, carrying a total of 6.4 million board feet, were made possible when Congress, nearly 1 year ago, accepted the amendment which I offered on the floor of the Senate to permit the suspension of Jones Act restrictions on shipments of lumber to Puerto Rico. There will be such shiploads in the future only if Congress extends and makes permanent the Puerto Rican amendment to the Jones Act, by acting favorably upon S. 2100.

The sales recorded by the northwest lumbermen in Puerto Rico were achieved despite obstacles which did not exist in any other market in which northwest mills do business. They were made despite the cost and delay of processing the first Jones Act suspensions through the Maritime Administration. They were made despite the need for inducing Puerto Rican customers to abandon their established pattern of dealing with British Columbia. They were made despite the unwarranted graft of a first-refusal requirement upon the basic legislation by the Maritime Administration; and they were made despite the rational fears of the Puerto Ricans that upon the expiration of the Puerto Rican Jones Act amendment they would be forced to return to the Canadian mills subject to possible retaliatory measures.

It is essential then that the Puerto Rican amendment be extended so that commercial relations between northwest shippers and Puerto Rican customers can be stabilized and that Congress make manifest its intent that no "first refusal" handicap was ever intended to be made a part of this legislation.

The Maritime Administrator, charged with the implementation of this amendment, made the following crucial finding in granting the first of several suspensions under the terms of the amendment:

We have here two segments of American enterprise both of which are sorely beset by foreign competition. The record of this proceeding shows that under the preexisting legislation banning the use of foreign-flag vessels in domestic shipping, no lumber from the Pacific Northwest has moved to Puerto Rico during the last 2 years, due in some part to the lower foreign-flag transportation rates which have assisted Canadian producers in capturing this formerly American-held market. Thus, the Congress decided to lift the ban under certain conditions in order to relieve the distress of at least the lumber industry. To have continued the prohibition would have had the effect of perpetuating the depression in both industries.

Mr. President, I desire to read the following from page 3 of the report:

The witness of the leading shipping association testified at the hearing that, to the best of his knowledge: "no one has genuinely been hurt among the carriers."

Witnesses from west coast ports and mills are confident that extension of the suspension would make possible more thorough penetration of this once-rich Puerto Rican

market, and the committee is similarly confident that the results achieved in the abbreviated period of selling activity give promises of much greater returns in the 2-year period the bill now proposes. The results achieved have not only made a welcome dent in unemployment in this important industry, but the psychological effect has been most salutary throughout the whole Northwest area.

The Department of Commerce through its General Counsel, Robert E. Giles, recommended enactment if the bill were amended to provide for a 2-year extension. The Department report stated:

"Suspension of the provisions of section 27 of the Merchant Marine Act of 1920, with respect to lumber shipments to Puerto Rico, appears to be necessary if Pacific coast lumber is to have any place in the Puerto Rican market. * * * In view of the effect on west coast lumber shipments resulting from section 4 of Public Law 87-877, it would appear desirable that a thorough reappraisal be made during the next 2 years of the effect of the Jones Act on the present state of the U.S. merchant marine and the domestic economy generally."

In short, the Puerto Rican amendment to the Jones Act has not plugged the dyke, but it has helped. And if it is extended, the new Puerto Rican market for American lumber will continue to grow and flourish.

Mr. MAGNUSON. Mr. President, I would be derelict in my responsibility if I did not suggest that the distinguished Senator from Oregon [Mrs. NEUBERGER] deserves to be complimented for her fine work in connection with the problem of lumber shipments from the west coast. It is she who was primarily responsible for the original bill. I compliment her for her diligence in connection with this matter.

Mr. BARTLETT. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. BARTLETT. I associate myself with all that the Senator from Washington has said. The Senator from Oregon [Mrs. NEUBERGER] inaugurated this program, and she has been very greatly interested in it from the outset, and has worked diligently and effectively to aid the lumber industry of the Pacific Northwest.

Mrs. NEUBERGER. Mr. President, I appreciate the very kind words of the Senator from Washington and the Senator from Alaska.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2100) was passed.

The title was amended, so as to read: "A bill to continue for a certain period certain authority of the Secretary of Commerce to suspend the provisions of section 27 of the Merchant Marine Act, 1920, with respect to the transportation of lumber."

Mr. MANSFIELD. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVATE RELIEF BILLS

On request of Mr. MANSFIELD, and by unanimous consent, the following bills were considered and, after being passed through the required parliamentary procedures, were passed.

DR. MARGOT R. SOBEY III

The bill (S. 1760) for the relief of Dr. Margot R. Sobey III, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of the Immigration and Nationality Act, Doctor Margot R. Sobey III shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee.

ANTONIO CREDENZA

The bill (S. 1781) for the relief of Antonio Credenza, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Antonio Credenza may be classified as an eligible orphan within the meaning of section 101(b)(1)(F), and a petition may be filed in behalf of the said Antonio Credenza by Mr. and Mrs. John A. Nufrio, United States citizens, pursuant to section 205(b) of the Immigration and Nationality Act subject to all the conditions in that section relating to eligible orphans.

JAN AND ANNA SMAL (NEE DWORZANSKI)

The bill (H.R. 1414) for the relief of Jan and Anna Smal (nee Dworzanski).

PASQUALE MARRELLA

The bill (H.R. 1432) for the relief of Pasquale Marrella.

TRICIA KIM

The bill (H.R. 4862) for the relief of Tricia Kim.

MRS. CONCETTA FOTO NAPOLI AND OTHERS

The bill (H.R. 6624) for the relief of Mrs. Concetta Foto Napoli, Salvatore Napoli, Antonina Napoli, and Michela Napoli.

MRS. INGRID GUDRUN SCHRODER BROWN

The bill (H.R. 7268) for the relief of Mrs. Ingrid Gudrun Schroder Brown.

WINSLOW, ARIZ.

The bill (H.R. 7601) for the relief of the city of Winslow, Ariz.

GEORGE ELIAS NEJAME (NOUJAIM)

The bill (S. 1951) for the relief of George Elias NeJame (Noujaim), which had been reported from the Committee on the Judiciary, with an amendment, at the beginning of line 8, to strike out "Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota control officer to deduct one number from the appropriate quota for the first year that such quota is available."; 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, for the purposes of the Immigration and Nationality Act, George Elias NeJame (Noujaim) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee.

ERWIN A. SUEHS

The bill (H.R. 2238) for the relief of Erwin A. Suehs.

CREATION OF JOINT COMMITTEE TO STUDY THE ORGANIZATION AND OPERATION OF CONGRESS

The Senate resumed the consideration of the motion to proceed to the consideration of concurrent resolution (S. Con. Res. 1) to create a joint committee to study the organization and operation of the Congress and recommend improvements therein.

Mr. MANSFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on agreeing to the motion of the Senator from Montana [Mr. MANSFIELD] that the Senate proceed to the consideration of Senate Concurrent Resolution 1.

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

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

ORDER FOR ADJOURNMENT TO MONDAY, AT NOON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate concludes its session today, it adjourn to 12 o'clock noon on Monday next.

The PRESIDING OFFICER. Is there objection?

ORDER OF BUSINESS

Mr. MAGNUSON. First, Mr. President, I wish to state for the RECORD that it is my purpose—and I have discussed this with the majority leader and the minority leader—to have the Senate take up, on Monday, the conference report on the independent offices appropriation bill—a very large measure on which we completed, yesterday, the work of the conference committee. It includes several items in which Senators are much interested.

Mr. MANSFIELD. Mr. President, I appreciate what the Senator from Washington has said; and we shall bring up not only the conference report on

the independent offices appropriation bill, but also the public works appropriation bill, which will be considered de novo.

Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CLARK. Mr. President, I wish to ask whether I correctly understand the intended parliamentary procedure. I understood the Senator from Montana to indicate that he would have the Senate adjourn, rather than take a recess, this afternoon. Is that correct?

Mr. MANSFIELD. That is correct.

Mr. CLARK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Pennsylvania will state it.

Mr. CLARK. If the Senate adjourns this afternoon, instead of taking a recess, following an adjournment, when the Senate convenes on Monday, will the question now pending automatically have been displaced?

The PRESIDING OFFICER. The question now pending will automatically die when the Senate adjourns.

Mr. CLARK. Then I ask the majority leader at what time he has in mind moving that the Senate adjourn, this afternoon.

Mr. MANSFIELD. At any time that is convenient.

Mr. CLARK. I have suggested—although the majority leader has rejected my suggestion—that the Senate remain in session late tonight and tomorrow, in the hope that this filibuster could be broken.

Since the majority leader unquestionably controls the power to adjourn—for I have never known an instance when, after the majority leader asked the Senate to adjourn, it did not yield to his will—and since the majority leader, for reasons which I am sure seem adequate to him, is unwilling to attempt to break this filibuster, but since I have alternate plans, I shall appreciate his courtesy if he will tell me at about what time he intends to move that the Senate adjourn this afternoon, so that I can make my plans accordingly.

Mr. MANSFIELD. Would 3:30 p.m. be acceptable to the Senator from Pennsylvania?

Mr. CLARK. I do not believe so, but that matter is within the jurisdiction of the Senator from Montana. I hope he can wait until 4:45 p.m.

Mr. MANSFIELD. Very well.

Mr. CLARK. Then, Mr. President, I have no objection to the unanimous-consent request.

Mr. MANSFIELD. Mr. President, has the requested order been entered?

The PRESIDING OFFICER. Yes.

CREATION OF JOINT COMMITTEE TO STUDY THE ORGANIZATION AND OPERATION OF CONGRESS

The Senate resumed the consideration of the motion to proceed to the consideration of concurrent resolution (S. Con. Res. 1) to create a Joint Committee To Study the Organization and Operation of the Congress and recommend improvements therein.

Mr. CLARK. Mr. President, the pending question—which is the motion that the Senate proceed to the consideration of Senate Concurrent Resolution 1—is one which I wish to discuss now briefly, for two purposes: First, to make some relatively brief comments on the remarks made yesterday afternoon by the junior Senator from Georgia [Mr. TALMADGE], whom I see in the Chamber at this time, and whose remarks appear in yesterday's issue of the CONGRESSIONAL RECORD at page 23580. It is indeed sardonic that during the more than 11 months Congress has been in session, we have succeeded in charging the taxpayers with more than 22,500 pages of the CONGRESSIONAL RECORD.

I read with interest the comments which the majority leader made for the RECORD, last week, about the achievements of this session—which I agree are not inconsiderable. However, it has taken us a very long time to accomplish these things; and all of us know that the three major responsibilities of Congress during this session—namely, to pass the appropriation bills before July 31, at the latest, and preferably by June 30; to pass the civil rights bill; and to pass the tax bill—have not been met.

I return to my comments on the remarks made yesterday by the junior Senator from Georgia [Mr. TALMADGE]. He made some criticism of my statement that a unanimous-consent request by the majority leader was rarely objected to for any other purpose than delay. I reiterate that statement. Objection is frequently raised to a unanimous-consent request by the majority leader but it is always for delay. Usually the objection is raised to provide for a brief delay in order to afford time to agree upon an acceptable procedure on matters in which the objecting Senator is interested. Sometimes the purpose is to negotiate an agreement to dispose of business expeditiously when Senators can be in the Chamber.

But I reiterate my statement of yesterday that an objection to a unanimous-consent request made by the majority leader to take up a bill is always made for the purpose of delay. In this case it was made for a delay which was intended to be as long as necessary to prevent the concurrent resolution from being considered on its merits.

Mr. TALMADGE. Mr. President, will the distinguished Senator from Pennsylvania yield?

Mr. CLARK. I am very happy to yield to my good friend the Senator from Georgia.

Mr. TALMADGE. Is it the contention of the distinguished senior Senator from Pennsylvania that a unanimous-consent request made by the majority leader should not be objected to?

Mr. CLARK. No; it is not.

Mr. TALMADGE. I fail, then, to follow the logic of the Senator's argument. A unanimous-consent request, of course, requires the unanimity of 100 Senators. Any Senator has the right to object at any time he sees fit, if his opinion differs from that of the majority leader. He would be subordinating his judgment to that of the majority leader if he failed to object.

Mr. CLARK. The Senator is quite correct. I never said anything to the contrary.

I said, and I reiterate, that any objection to a unanimous-consent request made by the majority leader to take up a measure which is on the calender—and in this case, the concurrent resolution has been cleared by the policy committee—is never made except for purposes of delay. In the present case objection was made not only for purposes of delay, but a delay for as long as might be necessary to prevent the concurrent resolution and amendments thereto from being considered on their merits.

My second point, in reply to my good friend the junior Senator from Georgia, is to agree with him that the filibuster started by his senior colleague is the shortest one of recent record. Two words can start a filibuster if those two words are "I object." They started a filibuster yesterday.

I reiterate that I have been reliably informed by absolutely unimpeachable sources that this filibuster will continue as long as necessary—until Christmas, if necessary—unless the motion to take up Senate Concurrent Resolution 1 is either withdrawn or the Senator from New Jersey [Mr. CASE], the Senator from New York [Mr. KEATING] and I—as cosponsors of the amendment which we discussed yesterday—agree, under duress, to withdraw the amendment.

My third point is that it is, of course, within both the legal and the moral right of the junior Senator from Georgia to object to the Clark-Case amendment, to oppose it if he wishes to oppose it, to bring his undeniable powers of eloquence to bear on his colleagues, and, if he wishes to do so, to lobby them in the cloakroom to oppose the amendment. But I suggest that the proper time to do that is when the resolution is before the Senate for action and the amendment has been offered. I suggest, with all deference, that under normal parliamentary procedure—which I hope in due course will become the rule in the Senate—an improper time to do it is before the resolution has been called up and is under debate.

My fourth point is that I am amazed that so good a lawyer as the junior Senator from Georgia—and he is a good lawyer; he is known as such not only in his own State but also in the Senate Chamber during the almost 7 years he has been a Senator—should suggest that the concurrent resolution as submitted—and I now refer to the resolution as submitted and referred to the Committee on Rules and Administration by 31 Senators—is unconstitutional.

The 31 Senators who cosponsored the resolution were not even remotely thinking of interfering with the right of the House of Representatives to make its own rules.

All that the Case-Clark amendment provides is that the House and Senate rules shall be studied by a joint committee which shall make recommendations thereon.

The constitutional right of the House to pass on its own rules remains inviolate. The Senator from Georgia said that it does not require much education to understand that provision of the Constitution. I agree. It does not even take a law degree to understand that the constitutional argument of the Senator from Georgia is not worthy of serious consideration. I ask him if he does not know it himself.

Mr. TALMADGE. In response to the distinguished Senator, I repeat what I inserted in the RECORD last night. Article I, section 5, paragraph 2, of the Constitution states:

Each House may determine the rules of its proceedings.

That means what it says. Nothing can be gained, and no useful purpose can be served, by authorizing a joint committee, involving Members of the House of Representatives, to study Senate rules. In the first place, they would be unfamiliar with the procedure. In the second place, they would be utterly powerless to act. For all practical benefits, we might as well authorize some people on Mars—if we ever discover that there be any there—to study rules of the Senate, because they would have as much control over Senate procedure as has the House of Representatives. The able Senator knows that.

Mr. CLARK. I say to my friend from Georgia that when bills and resolutions are introduced in the House or in the Senate, it is customary to take testimony on those measures to determine whether they should be reported to the House or Senate.

Could not the proposed joint committee take testimony on the question of which, if any, of the House rules should be changed?

Why should Senators who are on the committee merely to make recommendations and to investigate refrain from listening to the testimony or even from expressing their opinion as to its validity?

Mr. TALMADGE. For the very reason I have stated. The Senator begs the question.

Of course, when bills are introduced in either the House or the Senate, affecting legislation which both bodies must enact or reject, testimony is taken before the respective committees of each body. But I have never known any instance in the history of our Republic in which Members of the House tried to determine the rules of the Senate or when Members of the Senate tried to determine the rules of the House. Clearly they are without authority to do so.

Any study commission along that line would serve no useful purpose.

I, for one, believe the 100 Members of the Senate are capable of discharging their own constitutional responsibility, and I do not believe we must go outside the Senate, to the House, or to any commission anywhere. The responsibility is ours and ours alone.

Mr. CLARK. The Senator may be correct that Members of the Senate should not participate in hearings on the validity of the House rules.

Mr. TALMADGE. In fact they cannot. The Senator knows that the Constitution gives them no such powers.

Mr. CLARK. The Senator is quite incorrect as to what I know. In fact, I know exactly the contrary.

I say, if I may finish my statement, that the Senator may be correct, that it would be unwise to permit Members of the Senate to sit on a joint committee to consider, among other things, changes in the rules of the House, many of which changes would have a vast effect on procedures in the Senate. I ask the Senator again—and this will be my last effort to engage in colloquy on this point—does he really believe this proposal is unconstitutional? I cannot believe that he really considers it to be unconstitutional.

Mr. TALMADGE. Of course it is not unconstitutional for any person to study the rules of the Senate, but the group would have no power to act. No useful purpose could be served by bringing in the two bodies to try to review and appraise each other's rules. They would have no power to act. The Constitution gives them no power to act. It would be an absurd situation if they were to consider something they were powerless to resolve.

Mr. CLARK. I assume my friend from Georgia withdraws the argument that the original resolution, as submitted by 31 Senators, was unconstitutional, an argument on which he laid such stress before the Senate yesterday. I am not passing on the question of whether it is wise or not. I only say there are plenty of precedents, and I believe it is wise. Does not the Senator agree, as he said a moment ago, that there is nothing unconstitutional about it?

Mr. TALMADGE. Let me read my argument, rather than take the Senator's word for it. I quote from what I said on the floor of the Senate yesterday:

My objection is based on the Constitution of the United States of America. I read:

"Article I, section 5, paragraph 2: Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and with the Concurrence of two-thirds, expel a Member."

Mr. President, that language is written in plain English. It does not require much education to understand that provision of the Constitution of the United States. It merely states that each House may determine the rules of its proceedings. That means that the Senate may determine its rules and the House of Representatives may determine its rules.

The Constitution does not authorize the House of Representatives to study and determine the rules of the Senate.

Mr. CLARK. Of course, it does not.

Mr. TALMADGE. That is the language used by the Senator from Georgia. The Senator from Pennsylvania tried to insert language into what I said, which was not there.

Mr. CLARK. I ask the Senator from Georgia for the last time, Does the Senator agree with me that there is nothing unconstitutional in the resolution, Senate Concurrent Resolution 1, as originally submitted by the 31 Senators who cosponsored it?

Mr. TALMADGE. The Senator asked that question prior to this time, and I responded thereto.

I say again, no. It is not unconstitutional to create a joint committee to study the rules of the House or of the Senate, either, but it would be an exercise in absurdity, because they would be studying something which, in the first place, they know nothing about; and which, in the second place, they were powerless to resolve.

We might as well create a Senate committee to study the political situation in Patagonia. We would be as much authorized to act in Patagonia as the House of Representatives would be authorized to act on the rules of the U.S. Senate.

Mr. CLARK. I have no doubt that in due course, if it has not done so already, the Foreign Relations Committee of the Senate will study the political situation in Patagonia.

Mr. TALMADGE. But Congress will not pass laws for Patagonia.

Mr. CLARK. No. Nobody is suggesting that Congress pass such laws.

I believe the colloquy has been developed adequately so that the clash of opinion—and it is a very deep clash—between the Senator from Georgia and me is perfectly clear to all who are listening—unfortunately, only three other Senators—and to those who are in the visitors' gallery and in the press gallery.

Mr. MANSFIELD. Four other Senators.

Mr. CLARK. So I wish to proceed to my fifth point.

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

Mr. CLARK. I yield.

Mr. ERVIN. I assure the Senator from Pennsylvania that I have enjoyed the colloquy between him and my distinguished friend from Georgia; and I confess that I find myself aligned on the side of the able and distinguished Senator from Georgia.

Mr. CLARK. I say to my good friend from North Carolina that my feelings are not hurt by his comment, and I am far from surprised.

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

Mr. CLARK. I yield.

Mr. MANSFIELD. Had the Senator from North Carolina said anything else, I fear the Senator from Pennsylvania would have been quite suspicious.

Mr. CLARK. Mr. President, I return to my fifth point.

Mr. ERVIN. Mr. President, if I may make a comment in that connection, sometimes I believe the Senator from Pennsylvania is unduly suspicious.

Mr. CLARK. What was the phrase my dear departed father used?

I deny the allegation and defy the allegator.

Mr. President, my fifth point is that the junior Senator from Georgia stated that Members of the Senate could shed no light on House precedents. Forty Members of this body have previously served in the House, including the Sen-

ator from Oklahoma [Mr. MONRONEY], who became an expert on the procedures and rules of the House during his service in that body as cochairman of the LaFollette-Monroney Reorganization Committee, which was largely responsible for the passage of the Legislative Reorganization Act of 1946.

I ask unanimous consent that a list of the 40 Members of the Senate who previously served in the House may be printed in the RECORD at this point.

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

SENATORS WITH PREVIOUS HOUSE EXPERIENCE

Forty Senators in the 88th Congress, 1st session, had previous experience in the House, including Senator BARTLETT, who had been a delegate from Alaska:

ANDERSON, BARTLETT, BEALL, BOGGS, BREWSTER, BURDICK, CARLSON, COTTON, CURTIS, DIRKSEN, DODD, DOMINICK, ENGLE, FULBRIGHT, GORE, HAYDEN, HILL, HRUSKA, INOUYE, JACKSON, JAVITS, KEATING, MCCARTHY, MCCLELLAN, MCGOVERN, MAGNUSON, MANSFIELD, METCALF, MONRONEY, MORTON, MUNDT, PROUTY, RANDOLPH, RIBICOFF, ROBERTSON, SCOTT, SMATHERS, SPARKMAN, WILLIAMS of New Jersey, and YOUNG of Ohio.

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

Mr. CLARK. I am glad to yield to my friend from Georgia.

Mr. TALMADGE. Is it the contention of the distinguished Senator from Pennsylvania that Senators—either former House Members or those who have never had the privilege of serving in the House—ought to make recommendations to the House as to its rules?

Mr. CLARK. Yes.

Mr. TALMADGE. Is it also the contention of the distinguished Senator from Pennsylvania that the Members of the House ought to make recommendations to the Senate as to its rules?

Mr. CLARK. Yes.

Mr. TALMADGE. Is it the contention of the Senator, then, that those rules ought to be put into effect, after the recommendations are made?

Mr. CLARK. In my opinion, the recommendations should be carefully considered by each body which, under the Constitution, has an exclusive right to be the judge of its own rules.

Mr. TALMADGE. Does the Senator believe that legislators in Pennsylvania ought to make recommendations about Senate rules or House rules?

Mr. CLARK. I have the feeling that it would be wise for the committee to call before it one witness, and possibly two witnesses, from Pennsylvania, in order to give testimony as to how infinitely superior are the rules of the house of representatives and the State senate of Pennsylvania to the pratices, procedures, rules, and floor practices of the Senate and House of Representatives of the United States.

I would also like to see a couple of expert witnesses called from the State of Georgia, where my distinguished colleague served with such eminence as Governor, because I have information which leads me to believe that the procedures in the Legislature of Georgia are infinitely superior to those in the Senate and in the House of the U.S. Congress, particularly in that they provide for the moving of the previous question and termination of debate after a reasonable time if a majority of the State senate desires to terminate debate.

Mr. TALMADGE. Mr. President, will the Senator yield further?

Mr. CLARK. I am happy to yield.

Mr. TALMADGE. It is the position of the distinguished Senator that Senators ought to make recommendations to the legislature in Pennsylvania or the city council in Philadelphia or board of alderman of Atlanta as to what their rules should be?

Mr. CLARK. My own view is that we have so big a mote in our own eye that we had better not complain about the beam in anybody else's eye—at least, not for the present. So the answer to the Senator's question is "No."

Mr. TALMADGE. In other words, the Senator from Pennsylvania thinks those experts ought to tell the Senate how to conduct its business, but the Senate ought not to tell other legislative bodies how to conduct their business. Is that it?

Mr. CLARK. No, that is not it. Once we get the Senate and House modernized, up to date, with 1963 rules, procedures, practices, and floor action as a result of recommendations by a joint committee, with prayerful consideration by 100 of our own Members, we should be willing, time permitting, to go to State legislatures or city councils which might want the benefit of our recommendations—which might very well be few.

Mr. TALMADGE. The Senate rules have been in existence ever since 1787, the first Congress——

Mr. CLARK. Since 1789.

Mr. TALMADGE. Since 1789, and have been modified from time to time as the Senate, and the Senate only, saw fit. During that period the alltime great men in the history of our country served in this body. There served in this body Daniel Webster, John C. Calhoun, Bob LaFollette, Henry Clay, Bob Taft, and John F. Kennedy. I do not recall that they ever stood on the floor of the Senate day after day and berated it and its rules and held it up to scorn and ridicule. I am at a complete loss to understand why the distinguished Senator from Pennsylvania wishes to serve in this body, which he holds in such utter contempt.

Mr. CLARK. The last time anybody acted as such a maverick as I appear to be was when Vice President Charles G. Dawes tried to persuade the Senate to revise its rules. Unlike the House, the Senate has never engaged in a comprehensive revision of its rules of procedures. The House comprehensively revised its rules in 1890, when the so-called Reed rules were adopted, which sought to eliminate the filibuster rule from the House procedures. It was done again in 1910, when Speaker Cannon was stripped of most of his powers. Generally speaking, the procedures in the House are democratized, as a result of the Reed rules, in the floor procedure in the House, for which I have the greatest admiration. It is true that some reforms are needed in certain House rules which impinge on its ability to do its business there. Of these, the most important I think are the undue powers of the Rules Committee.

I do not know whether that answers the Senator's observation.

Mr. TALMADGE. The Senator has made his statement clearly.

Mr. CLARK. Finally, I should like to make the point—and I make it without animus, but in all good humor, but, nonetheless, I make it strongly—that it appears to me that the outward and visible signs—and I know nothing about the inner convictions or motivations of the two Senators from Georgia, but the outward and visible signs—as to the basic reason for the present filibuster, and every other filibuster I have seen on the floor since I have come here, is fear of democracy, fear of a republican form of government, fear to put the validity of their contentions to the test of the votes of their colleagues—in short, fear of the American system of government.

Mr. President, I yield the floor.

Mr. TALMADGE. Mr. President, I desire only to make very brief remarks. The Senator from Pennsylvania has spent approximately 2 hours charging my senior colleague with a two-word filibuster——

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

Mr. TALMADGE. I am delighted to yield.

Mr. CLARK. I tried to time myself. I think the two speeches I made yesterday and today consumed a total of 49 minutes.

Mr. TALMADGE. I do not think the Senator is considering the time utilized in colloquy with the distinguished Senator from Oklahoma.

Mr. CLARK. I thought I did. The Senator's judgment is as good as mine. It is generally understood that it takes about 3 minutes to deliver a column in the CONGRESSIONAL RECORD. I shall be glad to check and put the figure into the RECORD Monday.

Mr. TALMADGE. I did not hold a stopwatch on the Senator to keep time, but it seemed like 2 hours.

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

Mr. TALMADGE. Certainly. If the Senator says it was 49 minutes, I will take his word.

Mr. CLARK. It must have seemed like 6 or 7 or 8 hours to the Senator from Georgia.

Mr. TALMADGE. No. I enjoyed it. I am certain, if he says it took 49 minutes, it was so. I will accept that statement.

The senior Senator from Georgia uttered two words. I spoke about 5 minutes. We have both been accused of filibustering. It seems to me the only speech of any length that has been made on the Senate floor since the motion to consider was made has been that made by the Senator from Pennsylvania.

Mr. President, I made known my views very clearly last evening. I do not think

they require much addition. I had inserted into the CONGRESSIONAL RECORD the constitutional provision which I read into the RECORD.

Mr. President, I ask unanimous consent that article I, section 5, paragraph 2 of the Constitution of the United States be inserted at this point.

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

Article I, section 5, paragraph 2: Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two-thirds, expel a Member.

Mr. TALMADGE. I further ask unanimous consent that the composition of the study committee recommended by the Rules and Administration, appearing on page 4 of Senate Concurrent Resolution 1, line 6, through the middle of line 17, be inserted in the RECORD at this point.

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

That there is hereby established a Joint Committee on the Organization of Congress (hereinafter referred to as the committee) to be composed of six Members of the Senate (not more than three of whom shall be members of the majority party) to be appointed by the President of the Senate, and six Members of the House of Representatives (not more than three of whom shall be members of the majority party) to be appointed by the Speaker of the House of Representatives. The chairman and vice chairman shall be selected by the President of the Senate and the Speaker of the House of Representatives from among the members of the committee, and shall not be members of the same political party.

Mr. TALMADGE. I further ask unanimous consent that the original concurrent resolution submitted by the senior Senator from Pennsylvania [Mr. CLARK] and other Senators, be inserted in the RECORD at this point.

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

SENATE CONCURRENT RESOLUTION 1

Resolved by the Senate (the House of Representatives concurring), That there is hereby established a Joint Committee on the Organization of the Congress (hereinafter referred to as the committee) to be composed of seven Members of the Senate (but not more than four of whom shall be members of the majority party) to be appointed by the President of the Senate, and seven Members of the House of Representatives (Not more than four of whom shall be members of the majority party) to be appointed by the Speaker of House of Representatives. The committee shall select a chairman and a vice chairman from among its members. No recommendation shall be made by the committee except upon a majority vote of the Members representing each House, taken separately.

SEC. 2. The committee shall make a full and complete study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying and expediting its operations, improving its relationships with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution. This study shall include, but shall not be limited to, the organization and operation of each House of the Congress; the relationship between the two Houses; the relationships between the Congress and other branches of the Government; the employment and remuneration of officers and employees of the respective Houses and officers and employees of the committees and Members of Congress; the structure of, and the relationships between, the various standing, special, select, and conference committees of the Congress, the rules, parliamentary procedure, practices, and/or precedents of either House, the consideration of any matter on the floor of either House, and the consolidations and reorganization of committees and committee jurisdictions.

SEC. 3. (a) The committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of the Congress, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable.

(b) The committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable.

(c) The expenses of the committee, which shall not exceed $———, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman.

(d) The committee shall report from time to time to the Senate and the House of Representatives the results of its study, together with its recommendations, the first report being made not later than four months after the committee is established. If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be. All reports and findings of the committee shall, when received, be referred to the Committee on Rules and Administration of the Senate and the Committee on Rules of the House.

Mr. TALMADGE. Mr. President, I point out that the original resolution offered by the Senator from Pennsylvania and his associates was stricken after the resolving clause, and new language, in its entirety, added as a substitute to the resolution offered by the senior Senator from Pennsylvania. The senior Senator from Pennsylvania was dissatisfied with the action of the Committee on Rules and Administration, and he attempts to bring back in substance what the Rules Committee of the Senate rejected.

I ask unanimous consent that the amendment proposed by the senior Senator from Pennsylvania [Mr. CLARK], the senior Senator from New Jersey [Mr. CASE] and the junior Senator from New York [Mr. KEATING], lines 8 through 10, be inserted at this point in the RECORD.

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

On page 6, between lines 4 and 5, insert the following new paragraph:

"(11) The rules, parliamentary procedure, practices, precedents of each House of Congress, and the consideration of any matter on the floor of each House."

Mr. TALMADGE. Mr. President, I point out that what the Senator from Pennsylvania sought to achieve in his original resolution was to establish a joint committee of the Senate and of the House to make certain studies. Many of such studies might be helpful.

However, the portion of the resolution that was stricken, which is the portion that the Senator from Pennsylvania seeks to achieve by amendment, is an authorization for a joint committee of the House and the Senate to study the rules, parliamentary procedure, practices, precedents of each House of Congress, and the consideration of any matter on the floor of each House.

I have not the slightest idea what the consideration of "any matter on the floor of each House" may be. I do not know whether it refers to language used in speeches by Senators or to the cuspidors, the wastebaskets, the carpets, or the chairs in the respective bodies.

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

Mr. TALMADGE. I am glad to yield.

Mr. CLARK. Among other things that the floor action has in mind is the filibuster presently being engaged in, and rule XXII, which permits it.

Mr. TALMADGE. I point out that the rules, parliamentary procedure, practices, precedents of each House of Congress are matters which, under the Constitution, are vested solely in each body.

It takes many years of service in the Senate to become familiar with the Senate rules and precedents.

Finally, adoption of our rules, modification of those rules, and amendment of those rules, address themselves solely to the Senate and to no other power on the face of this earth.

The rules, parliamentary procedure, practices, and precedents of the House of Representatives, address themselves solely to the House of Representatives, and no other power on the face of this earth can change that fact.

That is a matter that was vested purely in each branch of Congress by the Constitution. No commission can change it. No study commission would be anything but an exercise in futility, and would serve no useful purpose.

Those were the points I made last night. Those are the points I repeat today.

Now, in accordance with the opinion of the distinguished and able Senator from Pennsylvania, I have spent approximately 10 minutes on his alleged filibuster.

Mr. HART. Mr. President, whether I am joining a filibuster or fighting one is a matter almost of academic interest only to me.

Before the record closes on the effort to permit the Senate to act on the resolution submitted by the Senator from Pennsylvania and the Senator from New Jersey, to make the rules more responsive to the calendar of history, I should like to say a word.

There is no Member of the Senate who is not expendable, no matter how in his secret heart he views himself. However, the institution itself is not. It is an instrument for self-government. When the day arrives that the people of the United States feel we are inept—no, it

is worse than that, because they have felt about us in that way many times—if they conclude finally that we are unable to respond in time to the pressures of a new, very tiny world, some historians will note that that was the day when free society began to die. That oversimplifies it a little, but not grossly.

Therefore, I rise, because of the appropriateness of the resolution the consideration of which is sought, to urge in our own consciences a review of the entire subject matter.

The Senator from Georgia [Mr. TALMADGE] has remineded us that this Chamber housed Clay, Calhoun, and Webster. However, those men lived in a day when time ran more slowly. They were active in public life when this Nation's decisions affected relatively few people, and when there were few things in the Nation to decide.

The sea was a happy barrier, and other nations were not too much interested in us. What was done in Washington affected very few people in America.

We were remote geographically. The telephone was, initially, not in existence, and for a long time thereafter it was not very satisfactory.

The giants of the past had time available to understand the few major measures which confronted them.

I say this in no disrespect to their capacity or contribution. However, if one knew where one stood on the development of the West, how one would handle the public domain, what one's position was with respect to tariffs, and, by the time Andrew Jackson arrived on the scene, if one had a feeling for patronage, he was in business.

It is true that slavery confronted the Nation, but that problem was slow in maturing. I shall not suggest that we might have avoided a bloody war if the Senate had been more responsive. Historians disagree. However, I believe it a fair statement to suggest that whether the Senate rules made sense or did not make sense at that time was of virtually no concern to the people of America, because what happened here affected few people intimately.

The picture we see today is vastly different. What we do here affects intimately the lives of virtually every American. It affects importantly the lives of everyone in the free world. Each of us has the power to destroy the other, and therefore it affects intimately the lives of every soul on earth.

Sixty seconds still make up a minute, but the seconds run faster. A whole litany of problems confronts this body. If our rules are not as good as we can make them, it is critically important that we improve them.

There is eloquent testimony in the RECORD of the past months that our rules are not as effective as they could be. I should not like to think that the congressional institution could not function more effectively. It is only with that assumption that one could conclude correctly that the rules could not be improved.

The Senator from Pennsylvania [Mr. CLARK] and the Senator from New Jersey [Mr. CASE]—and I was glad to join with them—are seeking an opportunity to do something about the rules. This is not a very dramatic subject for debate unless we talk about rule XXII. Even then it is a very complex subject for the average person, busy with his own affairs, to understand.

It has been suggested that those of us who criticize the rules and suggest a need for improvement are somehow or other disloyal to the institution, and that we subject the Senate to ridicule, or that we would pull down the stones that make this temple.

I respectfully suggest that the only bad parent is the parent who does not care what the children are doing. The only person who is indifferent to the values and virtues of the Senate and the singular place it plays in our society and Government is the person who does not care whether the rules can be improved or not. If we were indifferent to this institution, we would not be here on a Friday afternoon, talking about the rules, because it does us no earthly good at home, politically.

I would hope that as Senators consider the effort of the leadership to permit the Senate to move on this proposal to change the rules, they will understand, whatever they feel about the specific rule proposal made by their colleague, that Senators who urge it do so in the deep conviction that this institution is not expendable; that it is essential in the functioning of the free kind of society that we have; and that the people of America are persuaded—and I think correctly so—that as a body we have permitted ourselves a luxury that cannot be afforded or justified, living with a set of rules that most of us in our hearts know could be improved. Time will run out on us if we do not move on this proposal.

I thank the Senator from Pennsylvania for his conspicuous contribution and the leadership he provides in this effort.

Mr. CLARK. I thank the Senator from Michigan for his eloquent support. I hope that all Senators will read his speech in the RECORD tomorrow.

Mr. President, I suggest that the question be put.

Mr. TALMADGE. I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, will the Senator withhold his request for a quorum?

Mr. TALMADGE. I withhold it.

Mr. MANSFIELD. I withdraw my request made to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I renew my suggestion of the absence of a quorum.

The PRESIDING OFFICER (Mr. KENNEDY in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MCGOVERN in the chair). Without objection, it is so ordered.

Mr. CLARK. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. CLARK. Does the Senator from Minnesota, a cosponsor of Senate Concurrent Resolution 1 and a strong advocate of rules reform, realize that now that he has the floor, he is participating in a filibuster?

Mr. HUMPHREY. I did not realize that. But when the Senator from Pennsylvania hears what I am about to say, I am sure he will want to withdraw his statement from the RECORD.

FAREWELL TO A GREAT AMERICAN—HERBERT H. LEHMAN

Mr. HUMPHREY. Mr. President, I wish to take a moment to comment on the life and works of a great American, an outstanding U.S. Senator, a highly significant personality in American public life, and a very dear friend of mine and of the Humphrey family. I refer, of course, to our former colleague, now departed from us, Herbert Lehman, of New York.

The death of Herbert Lehman has taken from us one of the most gracious, dedicated, and effective men I have ever known. If ever a man deserved to be admired, respected, and loved for his good works and his compassion for his fellow men, Herbert Lehman deserved that tribute.

His friendship and his leadership have meant much to me personally. The friendship of Herbert Lehman and that of his lovely and charming wife, Edith Lehman, have been a source of pride and great richness for Mrs. Humphrey and me.

Herbert Lehman's friendship and leadership not only have meant much to me personally, but also have meant much to the State of New York, to the Nation, and, indeed, to the entire world, because Herbert Lehman was truly a citizen of the world.

At the time when I was privileged to become acquainted with this remarkable man, he had already lived a full life of public service, having served as Lieutenant Governor of the State of New York, then as Governor of that great State, and then as Director of UNRRA, where he made an outstanding record for international service and leadership; and he served in many other posts of civic and public responsibility—and, in each case, with honor, integrity, and distinction.

I am sure that his habits and traits of character were very well set at the time when I became acquainted with him. I remember his tremendous courage, perseverance, patience, determination, and almost stubborn persistence in battling for any cause which he embraced. He was absolutely fearless. He seemed to give little or no consideration to the political consequences of his actions. Frequently, he championed what appeared to be unpopular causes; but he always took the lead in the causes which were related to the welfare of human beings.

When I speak of his courage and his lack of concern in regard to the political consequences of his actions, I mean that he did not consider himself. He considered the purposes of the objective

for which he was working. He threw himself into the battle with almost reckless abandon; yet he was a seasoned, experienced political leader who knew the rough and tumble of political strife.

When he engaged in debate, frequently he would move into the center aisle in the Senate Chamber and would face his colleagues; and as the debate became more heated, he would slowly walk down the center aisle, into the well of the Senate. He was always on the move forward, like a warrior moving fearlessly and relentlessly to the attack.

His every effort was dedicated to the strengthening of our great Nation and to promoting in the world the conditions that eased international tensions and would provide an environment conducive to peace.

Herbert Lehman was a fearless democrat—spelled with a small "d"—and a loyal Democrat, in terms of his partisanship.

The vitality and vigor of Herbert Lehman were amazing. After retiring from the Senate—and I know this from personal conversations—at the request of his lovely and remarkable wife, Edith Lehman, he went to work harder as a private citizen than he ever had done as a public official. He was in every battle for good government. Imagine a man giving up his seat in the Senate—one which was given to him by overwhelming majorities of the voters of New York—and then returning to his home State when he was in his late 70's and leading the reform movement in the Democratic Party. If ever a man qualified for the phrase "young of heart," it was Senator Lehman.

In a sense, Herbert Lehman was an aristocrat—an aristocrat by reason of his dedication to ideals, his basic decency, and his humanitarianism. He was my idea of a real gentleman—always having good manners and always speaking and acting responsibly. Yet, with all his gentlemanly qualities, he was a hard fighter; but he always fought cleanly.

What always amazed me about Herbert Lehman was that he had been described to me many times as a relatively middle-of-the-road man in his political views, during the terms of his service as Governor of New York; yet when he became a Member of the Senate, he was a flaming liberal. He was the youngest at heart of any of us. I do not know of a single member of the so-called liberal group in Congress who could keep up with him in terms of real dedication to progressive principles and to liberal thought. He had the honor, the strength, and the confidence which came from having lived a very rich and full life.

Mr. President, this great American served his country courageously and faithfully, in peace and in war. He served his State with dignity and significant achievements. He served the world in trying to bring people to a better understanding of their mutual interests for peace and for freedom.

At a time when our Nation is faced with an important decision in terms of the broader protection of human rights and of constitutional and civil rights, it is fitting and appropriate that it honor Herbert Lehman, who lived a life of championing the cause of human rights. His entire life was a living tribute to equality of opportunity, the dignity of the individual, and freedom of conscience.

Herbert Lehman was essentially and basically a religious man, without being doctrinaire or dogmatic. He was a student of government, as well as a practitioner of politics. He was a political leader, as well as one who cooperated with his leaders.

He was the partner of Albert E. Smith, the great progressive Governor of New York in the 1920's. I happen to know that he loved Al Smith. I know how they worked together, because I have spent many hours in the Lehman home, talking to Herbert Lehman.

Herbert Lehman was the working partner of Franklin Delano Roosevelt. He admired the late and beloved President Roosevelt, and on many occasions strengthened the hand of that great President.

Herbert Lehman was one of the closest friends that Mrs. Roosevelt had among all the citizens of the United States. He respected, admired, and honored her; and she felt the same way about him.

Mr. President, today the President of the United States presented medals to outstanding persons for their great contributions to American life and American security. The medal is known as the Medal of Freedom. It is the highest honor that can be given by this Nation to any person in peacetime for peacetime service and peacetime activity.

Herbert Lehman was preparing to leave New York City yesterday on the 1 o'clock plane to come to Washington to meet the President of the United States and to accept this singular honor that was to be given to him.

I wonder how many of us in this body remember that when our present President was stricken with a heart attack, it was Herbert Lehman who rose to request that the Senate stand in prayer for Lyndon Johnson, our then majority leader and a U.S. Senator.

There was a deep bond of friendship between the President and Senator Lehman. How ironical it is that at the very time President Johnson would have made this presentation the good Lord, in His infinite wisdom, has taken Herbert Lehman from us.

This great man, like our late and beloved President Kennedy, lives on even in death. His is an immortality of the spirit and an immortality of good works. I, for one, feel that the rarest privilege I have had—the greatest gift that has come to me in my service in Washington—was the privilege of knowing Herbert Lehman. He graced this body with his mind, his personality and his ability. He added strength and stature to the Senate.

Mr. President, I ask unanimous consent that certain editorials and articles which have been published about Herbert Lehman in some of the Nation's press may be printed in the RECORD at this point.

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

[From the Washington (D.C.) Post, Dec. 6, 1963]

HERBERT H. LEHMAN

There was so much simple goodness, generosity and grace in Herbert Lehman that one rarely thought of him as suited to the rough realities of American political life. He neither looked nor talked like a politician. Nevertheless the roster of public offices which he won, and filled with nobility and effectiveness, testified to a powerful political appeal rooted in the extraordinary qualities of conviction and courage which he brought into public life.

Entering politics at 50, after a notable career in business and banking, Herbert Lehman teamed with Franklin D. Roosevelt to become Lieutenant Governor of New York, then Governor for 4 terms when F.D.R. went to the White House, and finally U.S. Senator. In between, he served as director of the wartime Office of Foreign Relief and Rehabilitation and as Director General of the United Nations Relief and Rehabilitation Administration. Help for those whom the war had made helpless could not have been entrusted to more devoted hands.

A product of Wall Street and a multimillionaire, Herbert Lehman was an unreserved champion of underdogs and of progressive political ideas through the whole of his public career. If he ever became a power in the Senate or a member of its inner circle, he exercised influence nonetheless because, for the country at large, he symbolized sincerity. The dauntlessness with which this quiet, unpretentious little man challenged Joe McCarthy, the Senate's bully, illuminated the murkiness of a shabby decade in American politics. The country owes much to Herbert Lehman for its recovery from McCarthyism.

Senator Lehman's efforts to infuse charity and reason into American immigration policy may well constitute his most significant contribution. He was an implacable foe of the national origins quota system. That system has not yet been extirpated from the immigration statutes; but a proposal for abandonment of it was sent to Congress not long ago by John F. Kennedy. Its enactment would be Herbert Lehman's best monument.

Had he lived and held his health, Herbert Lehman would have been among those to be given the Presidential Medal of Freedom at the White House today. No one deserved it more. No one could have defended freedom more fervently.

[From the New York Times, Dec. 6, 1963]

HERBERT H. LEHMAN

A second riband of mourning now hangs on the American flag. For the death of Herbert H. Lehman closes the active career of an indomitable national and international servant. As Governor of New York, U.S. Senator, and Director General of the United Nations Relief and Rehabilitation Administration, his life and activities soared in example and significance far beyond the borders of this, his native city.

He lived a private and public life that moved in a straight and true line. In the richest sense of the words, he was a liberal and humanitarian. Against the enemies of the Republic, he saw service in the U.S. Army in the First World War and resigned from the Governorship in the Second World War to direct foreign relief operations for the State Department. Wherever human distress existed, all over the globe, there could be found Herbert Lehman, saving lives as a representative of the best instincts of the United States and the United Nations.

Reform, sound administration, and courage marked his political career. He entered

politics at the side of Alfred E. Smith and Franklin Delano Roosevelt, serving one as campaign chairman and the other as Lieutenant Governor. As Governor for 10 years from 1932 until America's entry into the war, he brought the State distinction and honor during difficult years for the people and the Nation. All this time he was a stalwart New Deal Democrat, closely affiliated with the programs of President Roosevelt.

The refinements of the Fair Deal nationally saw him in the service of New York as U.S. Senator, often as a quiet but not small voice speaking for legislation favoring all Americans. In Washington, he became the conscience of the Senate. When others quavered before the onslaught of McCarthyism, it was Herbert Lehman who offered the resolution for the removal of the Wisconsin demagog from his committee chairmanships. On matters close to his heart—immigration to continue the American dream and civil rights to uphold the American Constitution—he battled relentlessly against the troops of evil.

Together with Mrs. Eleanor Roosevelt, Herbert Lehman continued to stand for the reform movement in State and national Democratic politics. After he had passed his 80th birthday, he could be found in rain and cold carrying on his crusade for political decency in every section of the city. At the end of his life he was still standing in the forefront of many charitable, welfare, and humanitarian causes. This great man of private heart and public courage was not just a symbol, but an activist of noble aims and accomplishments to his last moments. These live on.

[From the New York (N.Y.) Times, Dec. 6, 1963]

LEHMAN'S LONG CAREER EMBRACED THE FIELDS OF POLITICS, BANKING, AND PHILANTHROPY—SERVED IN ALBANY AND WASHINGTON—EX-GOVERNOR AND SENATOR CLOSELY IDENTIFIED WITH LIBERAL LEGISLATION

The death of Herbert H. Lehman ended a political career that spanned half a century and linked political generations from Alfred E. Smith to the new young Manhattan reform group.

As Governor of New York and as a U.S. Senator he was identified with liberal and humanitarian legislation.

In private life, he was a leader in countless philanthropies and one of the foremost members of the Jewish community.

Reared in New York's banking world, he became one of the Nation's most ardent exponents of social reform.

Harold L. Ickes, the late Secretary of the Interior, wrote of him: "When a measure is proposed to promote the public welfare or protect our cherished form of government, he will fight for it, even if he is on the losing side. He has convictions and the courage of them."

SAYS WHAT HE THINKS

Mr. Lehman himself once declared: "People like a man who says what he thinks and does what he says."

His philosophy made him a power at the polls. Successively, as Lieutenant Governor and Governor of New York and as U.S. Senator, he was one of the State's most formidable votegetters.

When, in August 1956, at the age of 78, he announced that he would not seek reelection to the Senate, he had established a long record of achievement.

As Governor, Mr. Lehman obtained enactment of a State labor relations act, minimum wage and unemployment insurance statutes and the creation of a board to bring about the rapid liquidation of defaulted mortgage certificates.

He also sponsored numerous measures for low-cost housing, the improvement of public utilities regulation and the regulation of holding companies.

Among his greatest achievements in Albany was the conversion of a State budget deficiency of $106 million, which he found when he took office, into a surplus of $80 million by the time he left the State capital.

DEFENDER OF RIGHTS

In the Senate, Mr. Lehman was a forceful defender of the rights of the individual. In 1954, he was one of a small number of Senators who did not fear to clash with Senator Joseph R. McCarthy, the Wisconsin Republican whose controversial Communist-hunting methods and whose refusal to explain certain aspects of his personal finances were under Senate discussion.

During the height of the McCarthy era and on the eve of a crucial senatorial contest, Mr. Lehman was one of the few to oppose a piece of anti-Communist legislation.

"I will not betray the people of my State in order to cater to the mistaken impression some of them hold," he declared. "My conscience will be easier, though I realize my political prospects may be more difficult. I shall cast my vote for the liberties of our people."

In 1961, he denounced the John Birch Society as a "force for evil in our country which in its potential harm is certainly equivalent to McCarthyism."

CONSCIENCE OF SENATE

Honored by liberals as the "conscience of the Senate," Mr. Lehman carried his zeal for democratic processes and humanitarian causes into other fields when he left public office.

As a founder of the New York Committee for Democratic Voters, he prodded Mayor Wagner into declaring war on the Democratic county leader, Carmine G. DeSapio, and on the party's State chairman, Michael H. Prendergast.

The "bossism" issue, which reached its climax in the 1961 primary and election, sent Mr. DeSapio to political limbo, stripped Mr. Prendergast of his power and resulted in Mr. Wagner's election by a plurality of nearly 500,000 votes.

Mr. Lehman regarded the defeat of the old-line party leaders and the reelection of Mr. Wagner—who was honorbound to reform the party organization—as his last major political mission. He resigned as adviser to the Democratic reform group after the 1961 election, saying he would continue to support its principles.

The former Governor had led the fight against Mr. De Sapio and the Tammany organization with characteristic vigor.

He described the organization as "a kind of glorified soup kitchen at which the party faithful stand in line and wait their turn to be served." He termed Mr. De Sapio the leader of forces made up of "political conscripts."

By rising regularly at 6:30 a.m. and keeping on the go until 11:30 p.m., with only a brief nap in the afternoon, Mr. Lehman managed even after his 83d birthday to campaign vigorously for philanthropic and civic causes as well as on political platforms and on the sidewalks of the city.

It was usual for him to receive 200 to 300 letters daily. He kept three stenographers working in relays.

Mr. Lehman's manner and dress usually were reserved. He was short and stocky. He read his speeches in a low voice, his nose buried in the manuscript.

There were many who believed that Mr. Lehman had no sense of humor and others who thought he did have a sense of humor but that he cloaked it in gravity. Allan Nevins, in his biography of Mr. Lehman, tells the following story.

Early in Mr. Lehman's governorship, a meeting of legislative leaders was discussing the large State deficit when Assemblyman Irwin Steingut of Brooklyn said:

"I know an absolutely sure winner at 5 to 1 at the Saratoga races next Saturday. If the Governor will authorize the State treasurer to give me $1 million to bet, I will turn it into $5 million and bring us out of our troubles."

All eyes turned to Mr. Lehman.

FROM LARGE FAMILY

"I do not believe that this would be a judicious employment of the State's financial resources," the Governor said gravely.

The next week, Mr. Steingut reported that his horse had won.

Mr. Lehman was a member of a large family that had been allied by marriage to other distinguished and public-spirited families that did much to shape the life of the city and State.

Herbert Henry Lehman was born March 28, 1878, in a brownstone house in the east sixties. It was a quiet, solid home, in which the atmosphere was one of restraint and dignity.

When he was a child, if he came to dinner without turning down the gas in his room, he had to go back and lower the flame before he could eat. His father took him to see the free ward of Mount Sinai Hospital to show him the goals to which much of the obligations of wealth and liberal government were to be directed.

As a boy of 6, Herbert was still in curls, a fact that caused his mother pleasure but was painful to him. But while he was on a visit to Europe, a strong-willed aunt in Liverpool, England, took matters into her own hands and won a debt of gratitude from the boy. As soon as his parents had left him with her alone, she took him to a barber and had the thick black curls cut off. After his mother's death, Mr. Lehman found a small box labeled "Herbert's curls."

A SPRINT IN SECRET

He attended Dr. Sachs' Collegiate Institute in New York, beginning in 1891. Years later he recalled how he and his classmates took part in a mile-long walking race in competition with other schools.

At one point the course ran behind a billboard. "When we got to that billboard," Mr. Lehman recounted, "we all sprinted a little."

"Quick tempered and razor tongued, he (Sachs) kept the boys in terror of his wrath, particularly as he tweaked their ears sharply for poor work," Mr. Nevins wrote in his biography, telling how Mr. Lehman had become a bad penman.

"If boys broke the rules, the doctor kept them after school to copy out some maxim several hundred times. Herbert was thus frequently corrected, and being in a hurry to get out to play, got into the habit of writing with more haste than finish."

He went from Dr. Sachs' school to Williams College in 1895. Although he was a rather shy young man, he was chosen president of his class one year. He managed the track team, was acting manager of the football team and was a fact-assembling, rather than oratorical, member of the debating team. He was graduated from Williams with a B.A. degree in 1899.

"Ever since then, I have written extremely fast but with complete illegibility," Mr. Lehman said later.

Herbert's father, Mayer Lehman, was a partner in the large investment banking firm of Lehman Brothers. The elder Lehman, with his brothers, Emanuel and Henry, had come to the United States from Bavaria in 1849.

The brothers settled in Montgomery, Ala., where they set up a general merchandise store and later entered the cotton trade.

By the beginning of the Civil War, Mayer and Emanuel had become widely known businessmen in the community. Henry had died. During the war, Emanuel went to Britain and arranged certain credits for the

Confederate Government. The Confederate President, Jefferson Davis, sent Mayer to New York under a sort of flag of truce to negotiate the exchange of prisoners of war.

The brothers' fortune was bound up with the Confederacy, and when the cause was lost, they burned the cotton in their warehouses to keep it from falling into Yankee hands.

A year or two later, they left Montgomery for New York, where Mayer Lehman became a founder and member of the first board of managers of the New York Cotton Exchange, established in 1871.

The tradition of welfare work and religious leadership was strong in the Lehman family. Emanuel became president of Congregation Emanu-El, and Mayer a trustee of Mount Sinai Hospital. There has been a Lehman on the hospital board ever since.

During his lifetime, Herbert Lehman carried on this tradition. He was a busy and highly successful fund-raiser for the Federation of Jewish Philanthropies, the United Jewish Appeal, and other causes.

As early as 1914, he helped to organize movements that later became the American Joint Distribution Committee, the major channel for American aid to Jews throughout the world.

In support of the movement to create a Jewish national homeland in Palestine, he organized the Palestine Loan Bank and the Palestine Economic Corp.

Altogether, Mr. Lehman served with more than 25 other philanthropic and educational organizations, displaying special interest in those dealing with child welfare.

This interest became apparent when Mr. Lehman left college and took his first job, selling cotton goods for the J. Spencer Turner Co. He spent much of his spare time in the evening supervising a club for boys at the Henry Street Settlement, where he coached basketball and debating teams. In 1908, he entered the firm of Lehman Brothers.

Mr. Lehman recalled this period as a particularly happy time. When someone suggested to him at the time that he should frame his first earnings—his first week's salary of $5—Mr. Lehman prudently changed the $5 bill for singles, framed two singles and use the three others for lunches and carfare.

He remembered with pleasure the dances and outings of the Harmonie Club and the pleasant round of entertainment enjoyed by the young men of his class. He also traveled in Europe.

He acquired a beginning interest in politics and became a delegate from his assembly district to the 1910 Democratic State Convention. Mr. Lehman was a serious citizen who approached the democratic process of party nomination with careful deliberation.

When the United States entered World War I, Mr. Lehman was turned down for infantry officer training because he was about 10 years over age.

He worked in the office of Franklin D. Roosevelt, then Assistant Secretary of the Navy, for several monthhs, then obtained a direct commission as a captain in the Army.

When the war ended, he was a colonel, handling procurement and transportation on the general staff. He received the Distinguished Service Medal, the highest award for noncombatant service.

APPOINTED BY SMITH

In the early twenties, probably in connection with a charity in which they were mutually interested, Mr. Lehman met Gov. Alfred E. Smith. These two men, the banker's son from the East 60's and the teamster's son from Oliver Street, formed a friendship that was to exert a great influence on New York State.

By this time, Mr. Lehman's banking and philanthropic activities had made him widely known. Governor Smith first appointed him to a few relatively minor tasks, such as membership on the Governor's mediation committee for garment workers.

In 1926 he was named chairman of a finance, budget and revenue committee formed by Mayor James J. Walker. He wrote an exhaustive report on city finance, which the mayor never bothered to read.

In 1926 Governor Smith persuaded Mr. Lehman to manage his reelection campaign. It was assumed that beyond making a substantial campaign contribution, Mr. Lehman would not participate actively. There was astonishment when he appeared at the Biltmore Hotel campaign headquarters and assumed personal direction.

In 1928, he was mentioned as a possible gubernatorial candidate, but Mr. Roosevelt was selected. He picked Mr. Lehman for Lieutenant Governor. It was said at that time that Mr. Roosevelt planned to spend considerable time at Warm Springs, Ga., to regain his health after his polio attack and wanted Albany in the hands of a strong and reliable man in his absence.

In the election, Mr. Roosevelt defeated Albert Ottinger and Mr. Lehman defeated Charles C. Lockwood, his Republican rival for Lieutenant Governor, 2,074,921 votes to 2,064,882.

From his Park Avenue apartment, Mr. Lehman moved into two rooms in an Albany hotel to take up his duties.

From then on, it was Mr. Roosevelt's habit to refer to Mr. Lehman as "my good right arm."

A year after the election, during one of Governor Roosevelt's absences, Acting Governor Lehman was called on to deal with the failure of the City Trust Co., a New York institution with more than 20,000 depositors, most of them persons of limited means. A State official involved in the bank failure subsequently was sent to prison.

Early in the investigation, when Mr. Lehman learned that the official was about to go abroad, he told him on the phone:

"You stay here, or I'll keep you here."

He won reelection as Lieutenant Governor, again with Roosevelt heading the ticket, in 1930. He increased his plurality from 14,000 in 1928 to more than 565,000 in 1930. This marked him as a good votegetter and a likely candidate for Governor in 1932.

WON OVER DONOVAN

He was nominated for Governor in 1932. The Republicans selected William J. Donovan of Buffalo to oppose him. This was "Wild Bill" Donovan, World War I commander of the "Fighting 69th" Infantry, a man brimful of political color.

Mr. Lehman polled 2,659,519 votes to Colonel Donovan's 1,812,080. Although this was the year that Governor Roosevelt obtained the Democratic Presidential nomination, which former Governor Smith had sought, it was characteristic that Mr. Lehman retained the friendship of Mr. Smith while having backed Mr. Roosevelt at the convention.

Mr. Lehman became Governor in January 1933. On March 2, he started for Washington to attend Mr. Roosevelt's inauguration. He never got there.

In New York, he met with a delegation of bankers who asked him to issue a proclamation closing the State's banks to prevent the banks from foundering in the crisis that was sweeping the country.

Not wishing to be accused later of having overdramatized the situation, Governor Lehman requested the signature of the bankers on a document stating that if he closed the banks, it would be at their request. All signed.

When the Republican-dominated legislature convened, Governor Lehman presented an extensive program of liberal legislation for its consideration. Before he left the executive mansion 10 years later, much of this legislation, together with other proposals that he sponsored later, had become law.

In 1934, the Republicans selected Robert Moses to run against him. Mr. Moses, with his reputation as a planner of parks and other civic improvements, conducted a vigorous and somewhat personal campaign against Mr. Lehman, who replied with statistics.

Mr. Lehman received 2,201,729 votes to 1,393,638 for Mr. Moses. This was the greatest defeat ever inflicted on a candidate for statewide office in New York until Thomas E. Dewey bettered the figure in a governorship race some years later.

Working with the first Democratic-controlled legislation since 1913, Governer Lehman hastened to push through as much liberal legislation as he could. Quarrels among Democratic factions, however, prevented him from fully realizing his program.

In 1936, when President Roosevelt overwhelmed Alfred M. Landon of Kansas, Governor Lehman defeated his Republican opponent, Judge William F. Bleakley of Yonkers, who had based his campaign on an attack on Mr. Lehman for his support of the New Deal.

The Governor got 2,970,575 votes to 2,450,104 for Judge Bleakley, a considerable reduction of Mr. Lehman's previous pluralities.

Governor Lehman was a conspicuous backer of the New Deal, and his program of liberal legislation for New York became known as the Little New Deal.

But Mr. Lehman did not follow Mr. Roosevelt blindly. He opposed the President's plan to pack the Supreme Court to win approval for New Deal legislation, and he was in general disfavor with some of Mr. Roosevelt's supporters who were oriented more to the left.

On the Supreme Court question, Mr. Lehman wrote to the President: "I share your disappointment that many important measures have been declared unconstitutional by a narrow and unconvincing vote of the Supreme Court. Unfortunately, however, I feel that the end which you desire to attain does not justify the means which you recommend."

During his terms as Governor, Mr. Lehman on several occasions had to intervene in law-enforcement problems, usually in this city.

When a Brooklyn truckdriver was beaten to death in 1934 and the Kings County grand jury did not indict three suspects, the cry was heard that "murder is safe in Brooklyn."

After a long hearing, Governor Lehman decided against removing William F. X. Geoghan, Kings County district attorney. But he appointed Hiram C. Todd as special prosecutor. The three suspects finally were convicted.

In 1935, because of worsening vice and racket conditions in New York County, Mr. Lehman got Thomas E. Dewey appointed as special prosecutor. Mr. Dewey's brilliant antiracket campaign began a political career that took him to the governorship and almost to the White House.

By 1938, Mr. Lehman had had enough of Albany. His eye was on the U.S. Senate seat left vacant by the death of Royal S. Copeland.

But the New Deal's popularity had waned and when it became virtually certain that Mr. Dewey would run for Governor on the Republican ticket, Democratic Party leaders

advised Mr. Lehman that he was the only candidate who could beat Mr. Dewey.

It was a close race. Governor Lehman was reelected with the aid from the American Labor Party. Mr. Lehman got only 1,971,307 Democratic votes, while Mr. Dewey received 2,302,506 Republican votes.

But Mr. Lehman obtained 419,979 votes on the American Labor Party line, while Mr. Dewey won 24,387 Independent Progressive votes. The Governor's total vote was 2,391,286 to 2,326,893 for Mr. Dewey.

His last term was in many ways his best. He won his fight for State aid to public housing and New York City won a bigger share of State revenue.

NOT ON FAMILIAR TERMS

Governor Lehman was never on really familiar terms with the leaders of the legislature because "familiarity was not in his nature," Mr. Nevins wrote in his biography. "He almost never went out to public restaurants in Albany; never was seen in a bar; never cracked a joke in his speeches, and almost never elsewhere."

One night, according to the account, a group of leaders gathered at the bar of an Albany hotel and grew "mellower and mellower." Finally, one of them made his way falteringly to a phone and got Mr. Lehman out of bed, inviting him to come down and have a good time with "some of the boys."

"It is somewhat late," the Governor said, although he said it affably. "I must ask to be excused."

The next morning the embarrassed leader made his way to the Governor's office to apologize. He was assured by an aid that Mr. Lehman had enjoyed the incident and had told everyone of it.

When Mr. Lehman left Albany—he did not run in 1942 and Mr. Dewey was elected—he retained an affection for the governorship. Even after he had left the State capital, and even after his subsequent service in the U.S. Senate, he liked to be called—and was called—"Governor Lehman."

He did not return to Wall Street. President Roosevelt drafted him to become director of the Office of Foreign Relief and Rehabilitation, which had been set up in anticipation of the burden that would evolve on the United States at the end of World War II. Mr. Lehman established his office in Washington. It was not long, however, until it was merged into a greater enterprise, the United Nations Relief and Rehabilitation Administration, which was established in 1943.

Named the first director of UNRRA, Mr. Lehman faced tasks that were totally different from those to which he had been accustomed in public office, where his powers had been defined and he had had the backing of powerful political factions. He had to combat personal and international jealousies. His new duties were vaguely defined, and he had to be constantly on the alert to prevent Communists from sabotaging the work of the organization.

He resigned when he found it impossible to work out an arrangement with the World Famine Commission, headed by former President Herbert Hoover. Mr. Lehman declined to accept the $15,000 salary for his UNRRA post, and paid his own expenses.

In resigning, Mr. Lehman described the endeavor as "the greatest and most far-flung program of practical human relief the world has ever known."

The first political defeat of his career came in 1946, when he sought election to the Senate. His opponent was Irving M. Ives, of Norwich, former majority leader in the assembly and coauthor of the Ives-Quinn Act, which protects minority groups against discrimination in employment. The measure was popular in New York City, and Mr. Ives received many city votes that ordinarly would have gone to Mr. Lehman.

Mr. Ives received 2,559,365 votes, all on the Republican line. Mr. Lehman got 1,688,887 votes on the Democratic line, 435,846 from American Labor and 174,694 from the Liberal party, for a total of 2,308,112.

DEFEATED DULLES

The opportunity to erase this defeat came to Mr. Lehman in 1949. Governor Dewey had appointed John Foster Dulles—who later was Secretary of State in the Eisenhower administration to succeed to the U.S. Senate seat that had been vacated by the resignation of Senator Robert F. Wagner, Mayor Wagner's father. In the election that fall, Mr. Lehman won by 2,753,934 votes, to 2,227,641 for Mr. Dulles.

Much of Mr. Lehman's prestige had derived from the fact that he seldom hesitated to put his political career in jeopardy when directed by his conscience to take a certain stand. In the summer of 1949, a brief but politically explosive controversy arose between Mrs. Franklin D. Roosevelt and Cardinal Spellman over a newspaper column written by Mrs. Roosevelt in which she had opposed the use of Federal funds for parochial schools.

In a letter to Mrs. Roosevelt, Cardinal Spellman, charged her with a long-standing prejudice against his church.

Although Mr. Lehman's stand imperiled his long-sought chance to represent his State in the U.S. Senate, Mr. Lehman issued a statement saying he was "deeply shocked" by Cardinal Spellman's accusation. Mr. Lehman emphasized in his statement that Mrs. Roosevelt had dedicated her whole life "to a constant fight for tolerance."

In the Senate, Mr. Lehman became one of the principal supporters of the Fair Deal of President Harry S. Truman. He was one of the 10 Senators who voted to sustain President Truman's veto of the McCarran internal security bill.

CRITIC OF M'CARTHY

It was as an outspoken critic of Senator McCarthy that Senator Lehman attracted the most attention. The two Senators clashed violently on the Senate floor over a friendly letter that Senator Lehman had written to Alger Hiss, a former official of the State Department who was convicted of perjury in connection with matters involving espionage.

Senator Lehman's letter was written long before evidence was made public involving Hiss with a Communist spy ring. At the time Senator Lehman's letter was written, Hiss enjoyed the respect and friendship of many highly placed persons.

Senator Lehman frequently introduced or backed legislation to relax immigration restrictions. His act providing for the admission of 214,000 additional immigrants was passed in 1953, but a year later he reported that delays and redtape had hampered the arrival of all but a handful of the authorized immigrants.

Senator Lehman voted for several bills designed to make it impossible for the Communist Party to operate in the United States. These votes of Senator Lehman included one cast to make membership in the Communist Party a felony. This proposed legislation was modified before it was sent to President Eisenhower for signing.

FACED HANLEY

Having served out the remainder of Senator Wagner's term, Mr. Lehman again faced the electorate in 1950. His Republican opponent was Joe R. Hanley, former Lieutenant Governor.

Polling 2,319,719 Democratic votes, Mr Lehman would have been beaten if he had not received 312,594 Liberal Party ballots to swell his total to 2,632,314 votes. The American Labor Party had run its own candidate, Dr. William B. DuBois, who polled 205,729 votes.

When Mr. Lehman announced in 1956 that he would not seek reelection to the Senate, he threw his support to Senator Wagner's son. The younger Wagner was defeated by State Attorney General Jacob K. Javits in the election that swept President Eisenhower into office for a second term.

Mr. Lehman was a member of the Army & Navy, Bankers, Williams, Century, and Harmonie Clubs, all of New York. He was also a member of the Phi Gamma Delta fraternity. He received honorary degrees from many colleges and universities.

Mr. Lehman and Miss Edith Louis Altschul, daughter of a San Francisco banker, were married on April 28, 1910. They adopted three children. They were Peter Gerald Lehman, a lieutenant in the Army Air Force, who was killed in active service in Britain in 1944 after having flown 57 missions; John Robert Lehman, who became a lieutenant colonel in the armored forces; and Mrs. Edward Wise, who served with the Women's Army Corps in World War II.

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

Mr. HUMPHREY. I am glad to yield.

Mr. HOLLAND. I wish to express my own deep appreciation to the Senator from Minnesota for the sincere words of gratitude, appreciation, and affection which he has spoken with reference to our mutual friend the late Senator, the late Governor, and the late great American—Herbert Lehman.

When I was serving as Governor of my own State, I attended my first Governors' conference and Governor Lehman was the nestor of all the Governors. He was the leading figure to address the Governors, many of whom, like myself, had recently come to that position of responsibility in our respective States. But at that time he himself had had the responsibility for almost 10 years in one of the greatest States of our Nation—the State of New York. We were all deeply impressed with him.

Mrs. Holland and I came to know him well and also to know Mrs. Lehman. Later, during their term of service—because, as the Senator knows, they worked together closely on everything—they lived in the same apartment-hotel with us in Washington. We were exceedingly fond of them.

I do not have to say to the Senator that the philosophy of Senator Lehman and my own frequently differed. That made no difference. We were good friends. He was frequently kind enough to include us in invitations of one kind or another, and, of course, we attempted to reciprocate.

I wish the RECORD to show as a reasonably conservative-thinking Senator, I appreciate, agree with, and find myself very much in common with the kind words which have been spoken by the Senator from Minnesota.

Senator Lehman, together with his lovely wife, frequently came to the State which in part I represent. They seemed to enjoy their visits. They were always welcomed with extreme hospitality, because the people of Florida were fond of

him and of Mrs. Lehman. We shall miss him.

I remember that during World War II he had a son who was in a difficult position in the services. My recollection is that he was in the Air Force, and that he lost his life during the war. I remember the way in which Senator Lehman and Mrs. Lehman stood up to that crushing blow—of course, it was just that—and how out of the greatness of their characters and their spirits they found the means to withstand the blow and to come out of it with their chins up, ready to continue to serve their country.

His service as Governor, his service in Europe in the two different capacities when he was administering to those who were in need, his service in the Senate and in innumerable other activities—because he was always serving in one way or another—will speak for itself in the history of our Nation.

He made a great record. He was a great American. Mrs. Holland and I would like to express our very deep sympathy to Mrs. Lehman.

Mr. HUMPHREY. I wish to thank the Senator from Florida for his gracious, sincere, and kind remarks. I know that the Lehman family will be most grateful.

I should like to add a word on a lighter note. About a year ago, I visited with Herbert Lehman when he was in the Southwest. I believe at that time he was in New Mexico. Prior to that, he had had an accident in which he fractured his hip. As he fell and fractured his hip, there was a moment of shock; and when Mrs. Lehman came to help him, the first thing he said was: "Now, don't you cancel my birthday party."

It was the privilege of Mrs. Humphrey and myself, together with many Senators and others in public life, to attend the 85th birthday party of Herbert Lehman. He was there at his birthday party, feeling good, still with the old spirit and energy, that sharp eye, and that happy countenance.

I like to add that personal note because when we lose a good friend it is not only a time for mourning but also a time for remembering some of the happy moments and some of those priceless experiences which friendship gives to us.

Allan Nevins, the great historian, has written a biography of Herbert Lehman. It is my privilege to have a copy of that biography. It is very good reading because it is not only the story of an exciting and an interesting life but also a powerful history of this great Republic.

TRIBUTE TO JOHN F. KENNEDY—ADDRESS BY HON. FRANK P. GRAHAM

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD an address by one of our former colleagues, a former Governor and a former president of a great university, Hon. Frank P. Graham, who addressed the 139th annual commemoration of Thanksgiving Day by the B'nai *Jeshurun Con*gregation in New York.

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

IMPRESSIONS OF THE MEANING OF JOHN F. KENNEDY IN AMERICA AND THE WORLD IN THIS AGE OF PERIL AND HOPE FOR PEOPLE EVERYWHERE

(By Frank P. Graham)

INTRODUCTION

It is with a deep sense of appreciation and opportunity that I find myself speaking at the 139th annual commemoration of Thanksgiving Day by the B'nai Jeshurun Congregation in this majestic temple of religion and learning and liberty and hope. With your permission, I have changed the subject of my talk, which was to have been on the meaning of the United Nations in the Atomic Age, to the meaning of John F. Kennedy in America and the modern world of peril and hope. In the thoughts just expressed by your distinguished Rabbi, William Berkowitz, who has so generously introduced me, we find ourselves today in the mood of sorrow for the memorable life that has gone and thanksgiving for the noble meaning of that life in the hopes of tomorrow.

THE TRAGIC PARADOX OF OUR HUMAN PREDICAMENT

In the assassination of a brave man, a great American President and a leader of the people of the world for freedom, justice and peace, suddenly hate and violence have done their worst. The best in American heritage and hope, whose meaning he had grown greatly to fulfill, was stricken down last Friday and the people across this land and beyond are desolate today. A courageous champion of the difficult steps toward universal human rights, universal humane well-being and universal disarmament, was cruelly and recklessly killed by an assassin's bullet. From the warm and broken hearts of the people of this and other lands around the earth have come universal expressions of shock and sorrow that a noble man and a preeminent leader, who had committed his life and his country to overcoming prejudice, hate and violence, should be paradoxically done to death by hate and violence.

In this American Nation of people of general and generous good will, prejudice and poison, seemingly organized and subsidized, have been spreading unreasoning and hate-filled charges against the President, the Chief Justice of the United States, and the United Nations. Hate, on its reckless way, provokes and enlists more hate, and violence begets violence in defiance of the judicially determined law of the land for the equal freedom of all people under the law. Prejudice and hate, aroused by monstrous opposites, develop a threatening climate for hate and violence. The tragic assassination of the President, who stood steadfast for obedience to the law as a moral right and a legal duty, was wrongfully avenged by a man, who, in contempt of law, counter-assassinated an accused man, who, at the time was in the hands of the law, awaiting his day in court as the due right of all accused under the law as a precious provision of the American Bill of Rights.

The deep and almost universal grief in the death of our gallant, gracious, and great leader and in the death of the brave sergeant of police in his line of duty, and our shame in this other violation of due process of law under the Bill of Rights, dear to our people, have brought home to the American people the responsibility to seek and find the meaning of it all. They mourn the loss of their leader in this hour of the world's need of him. They experience in this free society the several shocks of violations of due process of law at a time of urgent need of obedience to the law of the land as the responsibility of all the people in the land.

RECENT EXAMPLES OF HATE AND VIOLENCE

Prejudice and violence in our fair land, in mainly unusual instances, have been finding increasing expression in recent years by unbalanced individuals and highly vocal minorities in such vicious activities as the bombing of a church, a synagogue, and offices of the AAUN; the killing of little children while in Sunday school learning the lessons of brotherhood; the murder of a fearless Negro leader on his lawful way to his home; the spitting on the gracious and valorous Mrs. Lyndon Johnson in a recent campaign; the strangulation and murder in a few cities, North and South, East and West, of innocent and defenseless women who had the human right to live; the hidden murder of a southern "freedom walker" on his lonely pilgrimage to stir the consciences of his people; the rousing of prejudice and hate against white people in reverse racism; the smearing as un-American loyal Americans who are authentically American; the picketing of rallies for the United Nations in several States; the blow on the devoted head of the eloquent U.S. Ambassador to the United Nations, where a misinformed hate group shamelessly misrepresented the rank and file of the people of their city.

All these expressions of misinformed and unreasoning hate and violence, proceeding from different and even opposite directions, tend to build a climate which adds to the twisted spirit of a frustrated youth, who, as an individual had rejected the team spirit of his high school team, the U.S. Marine Corps, his country, the Soviet Union, and, upon his return home, the Government which brought him home, and then became accused of striking down one of history's noblest exemplars of religious tolerance, social and racial justice, and international cooperation and good will for freedom and peace on earth. This dastardly deed occurred against the deeper currents and the general life of the community, whose people, in spite of cruel previous misrepresentation and hate, responded to the firsthand impressions of the electric presence and the dynamic and joyful personality of a great leader of their higher selves, and took him to their own heart and were giving his an almost universal ovation.

If we sow the winds of prejudice, hate, violence, contempt for the law, equal rights under the law, and the Government of the United States itself as a hated foreign power, we may, if our people are not aroused for obedience to law and the meaning of the Bill of Rights, reap the whirlwind of national disaster at the very time the world needs most the continuing leadership of America and the best which America has to give in an hour of a possibly receding old peril and a rising new hope for all mankind.

WHAT IS THE ANSWER?

In this land where, as a general rule, unpopular and opposite opinions are free, forums are open for the contest of ideas, courts are uncorrupted, and governments are responsive to the needs and the aroused will of the people, the answer is not the counter-smear, unsound censorship, State gag laws against academic freedom, or repression, which are the ways of frightened power, but light and liberty under the law, which are the ways of enlightened faith in the robustness and power of an open society and a free, responsible, and responsive American democracy.

That these things have happened in widely separated regions of our beloved country, involves us all as a people. We have not provided equally and adequately for the

sound education, health, fair employment, well-being, and mental therapy of youth and the people and their perspective in the meaning of the Bill of Rights and the fulfillment of our spiritual heritage and the hopes of the American dream. All these and more are needed to carry on Kennedy's valorous leadership and sincere bipartisan partnership in the battles against prejudice, hate, and violence and for the equal freedom, human dignity, and fair opportunity of all people.

The American dream, for the progressive fulfillment of the equal rights of all people, which was immortally declared by Jefferson, bravely and wisely fathered by Washington, heroically embodied by Abraham Lincoln, universally proclaimed by Woodrow Wilson in his New Freedom and prophetic internationalism, was deepened and widened in the saving power of the New Deal, the Fair Deal, and the United Nations of Franklin D. Roosevelt and Harry S. Truman, conserved and enriched in the Modern Republicanism of Dwight D. Eisenhower, and has been carried further to the New Frontier of America and the World by John F. Kennedy, now personally and deeply mourned in the homes of the people of America and the world.

Born in the middle of the First World War, he risked his life and saved a companion on the farthest hazardous fronts of the Second World War, and dedicated his life and the mission of our Nation to saving the world from a third world war, which might bring to an end both the accumulated heritage of the ages and the hopes of the human race, long evolved in physical descent and spiritual ascent for survival and progress under God on this planet.

OUR THANKSGIVING FOR JOHN F. KENNEDY

As we all mourn for him on this Thanksgiving Day, we recall with gratitude his initiative and struggles for the test ban treaty, whose possible meaning for relaxation of tensions is shared by the Chairman of the Council of Ministers of the Soviet Union. Its ratification by 107 of the 111 nations of the United Nations, though a small step, was followed by another small but meaningful unanimous resolution for the nuclear disarmament of outer space. Rejections would have been most negative in their moral effects around the world. The values of these steps are not measured now by the length but by the direction of the steps, and, we hope and pray, in Kennedy's spirit, for more and more steps toward ultimate effective universal disarmament.

We recall with gratitude both his continuing effort for the Alliance for Progress to help the people of Latin America to lift now the level of their own lives and their own hopes for a better day in the generations to come, and also his unceasing efforts to carry forward programs mutually to share our freedom and abundance, not for waste, exploitation, or aggression, but wisely, responsibly, and creatively with people in all lands in need of food and opportunity, compassion, and brotherhood.

On this day devoted to national thanksgiving to God for this land of freedom and plenty, we are grateful for Kennedy's concern for slums, the depressed areas and their redevelopment, the unemployed millions, medical care for the aged, provision of food and the intelligent sale of wheat to people in need, equal rights of women, of labor and management, of men and women, white and colored, on farms and in cities, and all disinherited and handicapped people. We are appreciative of the timely proposal for a real cut in taxes to give an impetus to the wheels of industry and the free dynamics of reciprocal trade in national and international society in need of more investment, more purchasing power, more production, more jobs for the people out of work and for the hundreds of thousands of youth going annually into the labor market, annually being reduced by technological automation in our modern industrial society.

CONCERN FOR AND HOPE IN YOUTH

The youth of American are grateful to him, himself a young man of the mid-20th century, in his concern for youth in the schools, the dropouts, the delinquents, those unemployed, the mentally disturbed, and those despairing in a young land historically built on the hopes and the opportunities of youth.

To the good will and venturesome spirit of youth he made his bugle call to youth for enlistment in the Peace Corps in the "moral equivalent of war" against poverty, hunger, illiteracy, and disease, to help the youth and people of educationally and technically developing lands on the march toward new frontiers of plenty, progress and peace of peoples in all the world.

UPDATING THE IDEALISM OF THE AMERICAN REVOLUTION

In this age, confronted with the social dynamics of the Communist revolution, the ideals of the American Revolution have gone around the world. With its reverberations in the world revolution against colonialism and racism, the youthful Kennedy committed himself unreservedly against colonialism in the world and against racism in America, as a contemporary part of the updated American Revolution and a local expression of the world revolution of the colored, colonial, and exploited peoples of the earth for a fairer chance for themselves and all their children.

He found, I believe, in the march on Washington of Negro and white people from all sections moving together in good order and good spirit toward the Lincoln Memorial, something of the majestic rhythm of the history of a movement whose hour had come. He found, I also feel sure, that the present movement of youth, white and colored, for equal rights, had two of its most pervasive origins in Montgomery and Greensboro in the Old South, its historic origins in revolutionary Philadelphia, and its farther headwaters in the Judean hills of the prophetic Judiac-Christian heritage and redemptive hope for the sacred worth and equal freedom of all persons as children of one God and brothers of all people on the earth. These gallant young people, with the Bible and Constitution in their hands, prayers and songs on their lips, and nonviolence and brotherhood in their hearts, were to the gallant, youthful, and hopeful Kennedy, I venture to say, the most authentically spiritual and most American of us all.

We shall always recall with thanksgiving the ideas, challenges, and programs of his great addresses, such as his eloquent inaugural, his timely speech at the American University and his two noble addresses before the General Assembly: The first, in commemoration of the sacrificial death of Dag Hammarskjold, as a call, in his spirit, to the continuing and higher mission of the United Nations; and the second, as a call to the United Nations and people everywhere for survival, peace, and a common and better life on this planet.

THE UNDERSTANDING OF ABLE OPPONENTS

He gave the tribute of friendly respect to his able opponents, who sought, and seek, in historic custom, to obstruct and delay the updating of the idealism of the American Revolution by quoting the outworn shell of Jefferson's theories—adapted to an agrarian and local handicraft society fearful of the new and exploitative industrialism and the urban concentration of financial power—against the very substance and purposes of Jefferson's ideas for the equal freedom and justice of all people. After Jefferson's time there developed a national industrial society and an international commercial society which expanded beyond the competence of States rights—with all their valid and needed values in State and local responsibilities—to guide us in behalf of the freedom and well-being of all the people in America and the world. In honest fears, many of the opponents of Kennedy and of this recent distinguished predecessors, and the continuing opponents of his able, eminent, and devoted successor, belong to a nostalgic age that has gone or is going with the fresh winds now blowing across America and the world.

The gathering in Washington at a fateful hour, of an unparalleled number of heads of states, prime ministers, leaders of delegations, and representatives of nations to the side of the stricken leader of the most powerful Nation in our world of bipolar power, and the moving and warm addresses in the General Assembly of the United Nations in memory of his martyrdom by the President of the General Assembly, the Secretary General, the delegations of every region of the world, the chairman of all the committees of the General Assembly, and six former Presidents of the General Assembly, symbolized not only the worldwide appreciation of John F. Kennedy as a person and a leader of a great nation, but also indicated their knowledge of the unprecedented awful power which historic circumstances, modern technology, and the democratic choice of a free people had placed in his youthful but wise and sometimes lonely keeping. Worldwide was also the tribute to the high intelligence, the steel will, the unshakable faith, the indomitable courage, the humane insight, and the blessed restraint with which he used the power of his people for the well-being and peace of all people on the earth.

THE MAN

With rootage in depth of spiritual heritage and American hopes; handsome in endowments of resilient body and capacious mind; winsome in wit, gay and gallant in spirit; natural in dignity and enthusiasm; generous in the face of calumny; brave in all the hazards of war and strenuous in all the battles of politics and peace, instant in acceptance of full responsibility of a mistake in which others may have shared; tireless in homework and masterful in the precise knowledge and understanding of issues, large and small; unpretentious in the fun and opportunities of the press conference, President Kennedy, with the flashing smile of a charming, cultured, and gracious person, a great leader of the people, got through to the people in their homes, on the streets and in the places where they worshiped, played, and did their day's work. The people of the world will never lose the grateful memory of him in the midst of a great confrontation of mighty powers in our bipolar world of power, unprecedented in human history, whose menace of events converged upon him for immediate decisions as Commander in Chief in those fearful hours when the heart of the world almost stopped beating. In that awful predicament he stood steadfast on that lonely pinnacle of power for the freedom of his Nation and this hemisphere, and yet used the terrible power of his people with humane concern for the lives of all the people on this earth.

On an earth shrinking in time and distance, spiraling in the power for either the annihilation of all people or the international cooperation in the opportunity for the plenty, humane progress and peace of all people, John Fitzgerald Kennedy, as man, President, and leader of the people of the world, living in a generation and a world

in which he made his national and global home, grew to the stature of the times, the immensity of his burdens, and the nobility of his opportunities to interpret the issues of the day and help lead the people of his generation to the higher levels of their better selves and away from an age of war and violence toward an era of relaxing tension, humane hopes, and peace on earth.

The meaning of the sacrificial death of Lincoln, Gandhi, and Kennedy grows and will grow in spiritual power from generation to generation.

THE MEANING OF THE FAMILY IN A FREE SOCIETY

We are also grateful on this day of family prayer and thanksgiving, that the Kennedy family, in their close ties of love and loyalty, reverence and play, wholesome and strenuous in the zest for life and adventure, whether on the farthest fronts of war or the farthest frontiers of equal freedom and peace, have given a renewed meaning and a higher dimension of the values of the family as one of the main moral foundations of a free society in our complex modern world.

THE MEANING OF LIFE, MOTHER, AND WIDOW

Mrs. Jacqueline Kennedy, in her own right as wife, mother, and companion, was one of the sources of his joyful and devoted life and helped the President to give a new and authentic recognition to the meaning of the arts as among the noblest expressions of the national life and the human spirit. Amid the hosannas of the hundreds of thousands of people who acclaimed their President, sudden shots rang out and struck him down. As his youthful and surging life ebbed away from his great heart, she gathered him in her arms and abides in the strength of his sustaining love and immortal spirit in these days and all the days to come. The blood which fell on this heroic woman, fell on the people of America and the world with the warm uniting power which binds together in our common humanity all people who love greatness and sacrifice in the midst of life, and faith and courage in the midst of death. The people across America and around the world, who witnessed her contained love and sustained fortitude, will be nobler for the purity and beauty of the inner spirit which shone forth in the sublimity of the light on the face of the widow and the mother as she carried in strength and dignity the overwhelming grief which had so suddenly come to her. Her constant love and calm thoughtfulness also sustained her children, who, responding in the spirit of their beloved father and fun-loving companion, and in the faith and valor of their devoted mother, became themselves little soldiers of the spirit beyond their years.

THE TIPPIT FAMILY, THE OSWALD FAMILY, AND THE QUAKER LADY

We mourn with the courageous widow and children of the brave police sergeant and are thankful for the integrity and nobility revealed in a simple American home. When Mrs. Tippit, in her home, unaware of her husband's death, heard that President Kennedy had been desperately wounded, she immediately expressed her shock and then her concern and compassion for Mrs. Kennedy and the children. The older son, 11 years of age, said he remembered that his father had often said he wanted all of them to do their best for a better time for them all. We mourn also for the mother, the widow, and the little children of the man accused of two dastardly crimes and are thankful for the Quaker lady, who, in the unconsciously brave spirit of her religion, offered them the haven of her home, as John Kennedy himself in spirit would want her to do in these days of bewilderment.

THE RALLY TO THE SIDE OF PRESIDENT JOHNSON

In our sorrow for the death and our appreciation of the noble life and great leadership of him who has gone from us, we are grateful that our Nation goes on stronger in the immortal spirit, ideas and programs of John F. Kennedy and in the life and unreserved commitments of his chosen successor and trusted, loyal, and creative partner in great undertakings to carry forward the high combat against hate and violence and his all-out commitment for a strong bipartisan civil rights program and a strong bipartisan program in support of freedom, self-determination of peoples, the United Nations, and peace. By his side, as wife and teammate, stands Lady Bird Johnson, a woman of high intelligence, grace, and courage, who will inspire and uphold him in his immense burdens and adventurous hopes. The torch which has been passed from Kennedy to Johnson will be lifted high and carried on to the new frontiers of America and the world. His faith in America, his political baptism by Roosevelt, his stomach for strenuous battle and all its blows, his courage in the face of death, his highly perceptive mind, his driving will, his political skill in the effective congressional achievement of a bipartisan foreign policy and the first civil rights act passed in almost a hundred years under Eisenhower, promises the forward movement under President Lyndon Johnson of the people of the United States on the home front and the leadership of America on the earth as the God-given home of the family of man in this age of mortal peril and immortal hope for all mankind.

Mr. HUMPHREY. Mr. President, our good friend, Dr. Graham, who is to my mind one of the saints of our time—another rare and wonderful individual—spoke to the congregation on "Impressions of the Meaning of John F. Kennedy in America and in the Modern World of Peril and Hope."

I have read this address. I visited the other day with Dr. Graham when he was in Washington. I mentioned this address to him. He was kind enough to send me a copy. I wish all Senators to have an opportunity to read it, if they have the time. It is one of the finest tributes to our late President Kennedy that I have read, and I wish to share it with all other Senators.

ACCOMPLISHMENTS OF THE SENATE SUBCOMMITTEE ON REORGANIZATION AND INTERNATIONAL ORGANIZATIONS IN ITS STUDY OF "INTERAGENCY COORDINATION IN DRUG RESEARCH AND REGULATION"

Mr. HUMPHREY. Mr. President, from time to time, I have reported to the Senate on the activities of a Senate Government Operations subcommittee of which I am chairman. The Subcommittee on Reorganization and International Organizations has been studying "interagency coordination, economy and efficiency," pursuant to Senate Resolution 27, 88th Congress, as amended.

In previous statements, I have mentioned some of the subcommittee's many concrete achievements in such diverse fields as: First, overall coordination of scientific research; second, strengthened collection, dissemination, and evaluation of information; third, better coordination of international technical assistance programs; fourth, improved coordination of Federal programs in the field of pesticides; and in other areas.

Today, I should like to cite what we have done in fulfillment of our responsibilities for improving interagency coordination in Federal drug regulation and research.

FOUR OF OUR OBJECTIVES

There have been many such improvements.

The subcommittee, it should be noted, has aimed at helping the American taxpayer:

First, get more for his money—that is, for the $150 million which the U.S. Government spends for drug activities.

Second, get better coordination among the half-dozen Federal agencies involved in these programs,

Third, get better efficiency within each agency,

Fourth, get better drugs—safer, more effective drugs—for advancement of the public health.

The record is not all in, as yet, of course. But the record does show that we have had successes in all four objectives and on more than a dozen major fronts.

The record does not include as many successes as I would wish—nor have they always occurred as promptly, nor as completely, but they do represent substantial progress.

When the history of this effort is finally written, I believe that the American people will see even more clearly than is now possible that the subcommittee has repaid manifold the relatively small amount which was appropriated to it.

WELCOME LETTER COMMENDS SUCCESS IN HELPING TO CURB ADDICTION

I was reminded of the fruitfulness of some of our efforts by a fine letter which I have just received from one of the great State officials in this Nation, the Honorable Stanley Mosk, attorney general of California. Attorney General Mosk expressed his gratification at information which we phoned to him in Sacramento on a welcome decision by the Narcotics Bureau of the U.S. Treasury Department. The decision is to transfer a pain-relieving drug known as Percodan back to what is known as the class A list of narcotics. This list requires written prescriptions.

Heretofore, Percodan has been available on what is known as an oral refill basis.

The Bureau's action follows a survey which was made by the Narcotics Bureau on widespread abuse of this drug. And this survey resulted directly from messages which I sent not only to the Bureau, but to the Food and Drug Administration. I did so following protests which I had received from Attorney General Mosk and from numerous physicians over heavy abuse of the drug by addicts.

The forward step of taking Percodan off the oral RX list is, however, but one relatively "small" byproduct of our subcommittee's study. I say it is a "small" byproduct, because there have been much larger achievements involving not a single drug, but entire categories of drugs and, in some respects, all new

drugs—as they are evaluated by FDA. But, according to Attorney General Mosk, as many as 3,000 narcotic addicts may be misusing this one drug—Percodan—in one State—California—and many of these addicts are teenage youngsters. So this "small" matter is a very big matter in the lives of these unfortunates and in the lives of their loved ones.

Month after month, I have corresponded with law enforcement officers, basic scientists and physicians on this one drug. Similar correspondence, as well as phone calls and personal meetings have involved literally scores of other drugs.

BEHIND-THE-SCENES WORK TO PROTECT THE PUBLIC HEALTH

I mention this correspondence because sometimes people get the idea that a subcommittee is "busy" only when it is holding hearings, particularly headline-making hearings. Our subcommittee has, of course, held public hearings, and they have been, I submit, important and responsible hearings.

But in between these hearings, not a day has gone by in which we have not been in touch with drug experts by phone and by letter, working quietly, behind the scenes to protect the public health.

Our correspondence effort has been one of the most important phases of the subcommittee's drug study. We have corresponded, I believe, with virtually every major pharmacological organization in the United States with departments of clinical pharmacology in every U.S. college of medicine which has such departments and with every school of pharmacy, with pharmacologists in the World Health Organization, the section on pharmacology of the International Union of Physiological Sciences, with drug experts in England, France, Italy, Germany, Belgium, Japan, and other countries.

LETTERS ARE ACTION-ORIENTED

Our correspondence is action-oriented. We have sought improvements in international drug cooperation. We have sought to make sure that never again does a thalidomide-type tragedy recur, if human ingenuity can possibly prevent it. We have sought to foster the highest professional excellence.

MANY LETTERS TO BE PUBLISHED

Our correspondence has included literally dozens of letters with the National Institutes of Health, the Food and Drug Administration, the Veterans' Administration, the Department of Defense and other agencies. Many of these letters are, I believe, so helpful that they will be made a matter of public and permanent record in our forthcoming hearing-exhibit volumes.

SCORES OF LETTERS OF COMMENDATION

Literally scores of appreciative incoming letters from the United States and foreign countries attest to the fruitfulness of our efforts. Our outgoing letters, our public and private appeals and suggestions—are, our correspondents tell us, "paying off." We have served as a catalyst, we are told, so that the momentum for drug reform which followed the shock of the thalidomide tragedy is not lost. Too often a tragedy has occurred and has then been quickly forgotten until the next tragedy has taken place.

OUR RESPONSIBILITIES AS A NATION

This Nation is the world's drug leader. It has the highest drug standards in the world. It has the most dynamic pharmaceutical industry and the strongest university teaching hospital system, not to mention great drug contributions by Federal agencies.

Our aim is to accentuate the positive and minimize the negative.

Drugs, after all, are not just a matter of dollars and cents, but of life and death. Drugs relieve pain; drugs reduce disability, postpone and literally defeat death.

So, too, drugs can have hazards—just as most of man's other great instruments for progress can.

But now let the subcommittee's record speak for itself.

It is not an individual's record; it is a subcommittee record. Our subcommittee has functioned in harmony and unanimity. As in the case of our pesticide study, under the able acting chairmanship of the junior Senator from Connecticut [Mr. RIBICOFF], we work as a team.

The record is in two parts—(a) actions, (b) letters about our actions.

The record consists not of what we have said about ourselves, but of what others have said about the results of our efforts. They are in a more objective position than we to evaluate our success or our limitations. The record, too, includes quotations from but a handful of the many publications which have commented favorably on our program.

The subcommittee does not claim credit for anything not deserved. In some instances, it should be clearly noted, many other constructive forces have been at work for drug reform; no one source can properly claim to have been the sole source responsible for some particular improvement.

The Food and Drug Administration, for example, has made many internal improvements on its own initiative, and I commend the agency for them. The medical profession and industry has also made many improvements on their own and are to be commended. But infinitely more, in my judgment, must be done. And that is no mere figure of speech. There is not the slightest basis for complacency—pride, yes, in past achievement, but not complacency.

ONLY A BRIEF SAMPLING OF ACTIONS LISTED

The record which follows is just a brief sampling; it is not intended as a complete list. It does not include, for example, the actions which have been taken on many specific drugs, at our request, other than on Percodan, as mentioned earlier. The reason is that any such complete list—itemizing drug by drug, action by action—by FDA or by individual drug companies—would have to be far longer than the memorandum which follows.

I ask unanimous consent that the letter from Attorney General of California Stanley Mosk and the memorandum be printed at this point in the RECORD.

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

STATE OF CALIFORNIA,
OFFICE OF THE ATTORNEY GENERAL,
Los Angeles, November 27, 1963.

Hon. HUBERT H. HUMPHREY,
Chairman, Subcommittee on Government Reorganization and International Organizations, U.S. Senate, Washington, D.C.

DEAR SENATOR HUMPHREY: The subcommittee staff has informed me of the action taken this week by the Federal Bureau of Narcotics to remove the drug Percodan from the oral prescription list.

This is a long-needed administrative order and undoubtedly will give impetus to the effort by California law enforcement and medical groups to bring Percodan under the triplicate prescription procedures of this State.

Commissioner Giordano's action, coupled with the advertising directive issued by the Food and Drug Commissioner, gives promise that Percodan abuse will not continue to grow unchecked. California, unfortunately, already has a sizable addict group involved with the drug. It is hoped that in time these individuals may be located and treated.

We continue to develop evidence on the abuse of Percodan by heroin addicts, who find it an effective and easily obtained substitute narcotic. More recently we have received reports of teenage involvement with the drug. For these reasons, as well as for those I previously have outlined to the subcommittee, I believe that Commissioner Giordano's action this week indeed is in the public interest.

May I express my appreciation for the interest which you and the subcommittee staff have taken in this matter. Your efforts have done much to bring the Percodan problem to the attention of Federal agencies in a clear and constructive manner. I should hope that the subcommittee will be able to continue to study the circumstances under which this drug became a public health problem. As new drugs steadily continue to be developed and placed on the market, it is imperative that the regulatory machinery be sensitive to problems that may evolve and judiciously swift in instituting corrective measures. The public interest must be paramount.

Again, my appreciation for your interest and that of your subcommittee staff.

Sincerely yours,

STANLEY MOSK,
Attorney General.

PART 1: OUTLINE OF 12 STEPS FORWARD

1. NEW FEDERAL INTER-AGENCY COUNCIL SETUP

There has now been formed for the first time an Interagency Procurement Advisory Council on Drugs. Rear Adm. C. A. Blick is chairman. The Council consists of representatives of the Executive Office of the President; Office, Secretary of Defense; Defense Supply Agency; Department of the Army; Department of the Navy; Department of the Air Force; Department of Health, Education, and Welfare; Veterans' Administration; and the General Services Administration.

I had pointed to the absence of an interagency coordinating mechanism in a letter of December 1962 to the President's Science Adviser, Dr. Jerome Wiesner [1] and had urged the establishment of a suitable basis for intragovernmental teamwork.

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[1] Senate Committee on Government Operations, Subcommittee on Reorganization and International Organizations, hearing on "Interagency Coordination in Drug Research and Regulation," pt. 2, exhibit 112, p. 692.

When the Council (IPAD) was finally established, I learned that, unfortunately, its initial charter was far from complete. It concentrated so exclusively on the matter of interagency policy on drug purchases as almost to deemphasize the significance of information on the safety and efficacy of what is to be purchased.

I suggested, therefore, that specific revisions in the charter be made; this, I am glad to say, was promptly done.[2] The new charter includes provision for meeting problems, such as relate to "drug information, adverse reactions, reporting systems, etc."

A trade publication summed up[3] the situation as it saw it:

"Post-Humphrey: F.D.A. transmitting warnings and recalls to Defense Department for use in drug purchasing; monthly interagency meetings anticipated."

2. IMPROVED COLLECTION OF INFORMATION ON ADVERSE REACTIONS TO DRUGS

One of the most important efforts of the subcommittee has been to improve the collection of adverse reactions to drugs. Most of this crucial, often life-and-death information has, unfortunately, never been collected, never been published, never been evaluated, never been disseminated. This is confirmed by article after article in medical journals and by our own findings.

Yet, unless this information is made available, medical science may needlessly repeat drug mistakes instead of promptly learning from them and correcting them.

On August 6, 1963, the late Senator Estes Kefauver said[4] on the Senate floor:

"I am glad your Subcommittee of the Committee on Government Operations is going further into the question of intergovernmental relations in connection with the exchange of information on drugs, particularly drugs with potentially serious side effects."

Later, in a statement which I presented in the Senate in October 1962, I said:[5]

"All sorts of sources do attempt to compile reactions—pharmaceutical companies, the FDA, hospitals, the VA, NIH, and other sources.

"None particularly talks with the other; none cooperates to any real extent with the other. One might just as well try to scoop out the Atlantic Ocean with a leaky Dixie cup as to collect drug reactions in the hit-or-miss manner which has been going on for so long."

As a result of the subcommittee's efforts, the Food and Drug Administration took a new look at its tiny, weak program for adverse reaction reporting. At the time the subcommittee began its study, only 44 of the Nation's over 6,000 hospitals were participating in the FDA program.

The U.S. Government spends billions of dollars on its own three hospital systems. Yet, their cooperation, as indicated above, with FDA ranged in description from "fragmentary" to "not existent."

No Veterans' Administration hospital, no Department of Defense hospital, and only 8 of the 15 Public Health Service hospitals participated in the FDA program.[6] Since then, some improvements have been made in all of these respects.

On June 14, 1963, I received a letter from Maj. Gen. Joseph McNinch, retired, the able new Director of the Department of Medicine and Surgery of the Veterans' Administration, advising as to a new internal VA effort:

"We have now developed procedures for reporting adverse drug reactions by all Veterans' Administration hospitals and clinics, with provisions for exchanging summaries of such information with our field stations" (and, subsequently, with other agencies).

This was a specific recommendation which I, for one, made at our hearings in August 1962.

VA conducts, as we know, the world's largest clinical program.

It has always collected reactions on its excellent cooperative clinical testing programs. But the mass of its nonexperimental drug therapy had not been subject to centralized information gathering.

Meanwhile, the American Medical Association has proceeded in its own plans, formulated over a number of years, to expand its limited but valuable "Registry on Blood Dyscrasias" into a comprehensive program on reporting all types of adverse reactions. It is our hope that there will be a maximum coordination between the public and private program; i.e., the FDA and the AMA efforts.

3. IMPROVED SYSTEMS FOR ALL TYPES OF DRUG INFORMATION: PUBLISHED AND UNPUBLISHED

The Subcommittee has concentrated on the improvement in systems of scientific information and communication. This has been one of our specialties for all the sciences—the physical, mathematical, and engineering sciences, in particular—over the last 5 years.

As a result of our effort, with respect to drug information in particular, there have been improvements in internal information systems within each of the major Federal agencies, as well as improvements in interagency information systems.

A drug trade publication has referred[7] to our efforts to "spark a revolution in mechanized scientific communication and an international network for the exchange of drug information" as meriting "high honor."

Earlier, it had stated,[8] "doubters have little chance to stem the revolutionary tide being swept up by Senator Humphrey from the flood of research data."

I should like to state very frankly that some of the "doubters" still doubt, and still tend to drag their feet. The fact is that information improvements have come much more slowly than I would wish. The Federal agencies still tend to indulge in the habit of stalling—of making endless studies about information improvements, instead of getting busy to put into practice the studies which have long since been made. I believe that a few of these recent new studies are significant and helpful. But the time is long overdue to act on information reforms.

Many such reforms were suggested at the Surgeon General's Conference on Communication held at Airlie, Va., in November 1962. This conference resulted directly from our efforts.[9]

I am glad to say that the Surgeon General has an able Assistant for Scientific Communication in the person of F. Ellis Kelsey, Ph. D. I do not have the slightest doubt but that if Dr. Kelsey is given a "green light," this country will get a National Clearinghouse on Drug Information, such as he and we have proposed. For that matter, I hope we will have a system of national clearinghouses on cosmetic information, on food information, on pesticide information and on other scientific information. Only thereby can we end the serious unintentional duplication of research which has been going on. The fact that such unnecessary, unwanted, and wasteful duplication is still going on cannot be doubted. This disturbing fact was pointed up in a recent report[10] to the U.S. Public Health Service, which I shall mention further a little later on. The report recommended what it called "Cabin"—a chemical and biological information network. This is a new acronym for the very type of concept to which I have just referred above, namely, a clearinghouse or network system.

Such a system should, in my judgment, be based on a network of specialized centers throughout the Nation for the careful evaluation of drugs, working in close conjunction—on a voluntary basis—with Federal agencies, the National Library of Medicine, industry, teaching hospitals, researchers, practitioners, and most important, professional organizations of medicine and allied sciences.

4. IMPROVED TEAMWORK BETWEEN NATIONAL INSTITUTES OF HEALTH AND FOOD AND DRUG ADMINISTRATION

The subcommittee quickly determined at the very start of its study that, unfortunately, the "right hand" of the Federal Government—in drug research—has not known what the "left hand" of the Federal Government—in drug regulation—has been doing or could contribute. The American taxpayer has been spending more than $70 million a year through the National Institutes of Health for the support of drug and drug-related research. It is spending—in the very same Department of Health, Education, and Welfare—around $12 million a year through the Food and Drug Administration for drug regulatory purposes. Yet, in the past, relationships between these two organizations have been cool, minimal, haphazard, fragmentary, and ineffective. Fortunately, as a direct result of the subcommittee's efforts, there has been signed between NIH and FDA a new memorandum of agreement.[11] For the first time, there will be genuine systematic, organized mechanisms for interagency exchange of information, for representation by FDA experts on NIH study sections, for systematic FDA participation in NIH-sponsored seminars, conferences, etc. Far more must still be done along this line.

FDA needs to have the closest ties with NIH and, I might add, with the department of clinical pharmacology in teaching hospitals throughout the Nation.

5. IMPROVED COORDINATION BETWEEN FOOD AND DRUG ADMINISTRATION AND NATIONAL LIBRARY OF MEDICINE

On the first day of its hearings, the subcommittee learned that there was, unfortunately, minimal systematic cooperation between the National Library of Medicine and the Food and Drug Administration.[12] FDA has desperate, urgent, and continuing needs for the widest variety of drug information. Yet, NLM had organized no special arrangements to afford FDA the information which it so vitally needs. Even the planners of the National Library's great computer program, Medlars "Medical Literature Analysis and Retrieval Service," had not made advance provision for meeting FDA's particular drug requirements.

Now, fortunately, steps have been taken to service FDA on an improved basis through NLM.

In my judgment, however, FDA still is not getting a fraction of the information

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[2] Ibid. The revised charter will be published in a forthcoming hearing-exhibit volume, pt. 4.

[3] FDC reports, "The Pink Sheet," June 17, 1963.

[4] CONGRESSIONAL RECORD, vol. 108, pt. 12, p. 15692.

[5] CONGRESSIONAL RECORD, vol. 108, pt. 16, p. 22056.

[6] Pt. 1, p. 31.

[7] Drug Research Reports, Nov. 28, 1962, vol. 5, No. 47, p. 12.

[8] Ibid., Nov. 14, 1962, vol. 5, No. 45, p. 1.

[9] Medical Tribune, Oct. 15, 1962, p. 4.

[10] Spring, William S., Jr., M.D., and Honicker, Frank, Jr., "Drug Information for the Bio-Medical Community," "A Report of a Preliminary Study of the Needs for a National Drug Information Clearinghouse," report for the Public Health Service under Contract No. PH 86-63-130, Institute for Advancement of Medical Communication, Bethesda, Md., October 1963, pp. 78-82.

[11] To be published in pt. 4.

[12] Pt. 1, pp. 155-156.

which it needs, when it needs, in the way it needs—promptly and easily, so as to discharge its tremendous obligations.

6. STRENGTHENING INTERAGENCY COOPERATION WITH OTHER AGENCIES, INCLUDING U.S. DEPARTMENT OF AGRICULTURE

Our subcommittee has examined, agency by agency, relationships between the Food and Drug Administration and numerous other organizations within the executive branch of the U.S. Government, over and above those which I have already mentioned.

I will cite but a single additional example—improving the relationship between the Department of Agriculture and the FDA. These 2 agencies work together on many difficult issues, such as pesticides. The relationship is not always as smooth as it should be. But things are looking up. One aspect of the situation was summed up by another recent writeup in a trade publication: [13]

"The Department of Agriculture has proposed that a formal 'memorandum of understanding' be reached with the Food and Drug Administration, but has conceded that efforts to work out such arrangements have been difficult.

"USDA's efforts were revealed in correspondence from Agriculture Secretary Freeman's office to Senator HUMPHREY'S (Democrat, of Minnesota), Reorganization Subcommittee. The subcommittee's interest was sparked by complaints from a drug firm which markets a drug that is also used as a larvacide and is subject to regulatory control by USDA's Pesticide Division. The company complained that it must deal 'with each agency independently' on problems of mutual concern.

"USDA told HUMPHREY that it is 'common practice' for USDA and FDA to exchange information informally, and noted that these 'exchanges of information are normally carried out by telephone.' Formation of a 'formal committee' to handle such matters 'would be difficult,' USDA said, adding that it has proposed a formal 'memorandum of understanding' to guide both agencies.

* * * * *

"The Humphrey subcommittee is expected to oversee the establishment of a 'memorandum of understanding' between USDA and FDA."

7. IMPROVING INTERNATIONAL TEAMWORK ON DRUGS

On September 20, 1963, the late President John F. Kennedy, in a historic address before the United Nations, proposed the establishment of a World Center for Health Communication, including adverse reactions to drugs.

It had been my privilege to urge such an effort on several occasions:

(a) In addresses [14] in Canada in March 1962;

(b) in a letter [15] to M. G. Candau, M.D., Director General, World Health Organization.

In the wake of the thalidomide tragedy, WHO had begun an effort along this line.

This year, in May, at the 16th World Health Assembly, WHO adopted two drug resolutions, one of which pertained to more "rapid dissemination of information on adverse drug reactions."

On November 5, 1963, Dr. Candau, in an informal response to my letter of encouragement, October 18, 1963, advised that in January 1964, the executive board of the World Health Organization will consider further steps for international drug cooperation.

It is my hope that the great World Center concept, so well advanced by the late President Kennedy, will be realized. I feel confident that President Lyndon B. Johnson will do everything within his power to help advance this concept into reality.

8. INFORMING THE SCIENTIFIC COMMUNITY AND THE PUBLIC

In a special message [16] to the Congress last year, the late President John F. Kennedy emphasized the public's "right to be informed"—"to be given the facts it needs to make an informed choice." The scientific community must likewise be informed, as it, alone, can evaluate the technical details of scientific issues on behalf of the American public.[17] In connection with the rights of the scientific community, a trade publication recently commented [18] on another of the subcommittee's results:

"One result already apparent from the Humphrey study is a beginning of the loosening of the so-called confidentiality safeguards of FDA. * * * FDAers indicate now that in one area at least, methods of analysis for NDA's and petitions will be supplied interested parties."

But members of the medical profession have protested to the subcommittee that they are still denied elementary information to safeguard the lives of their patients. Their views are reflected to some extent in a recent report to the U.S. Public Health Service. In this report, William C. Spring, M.D. (who is, incidentally, a former research director of a distinguished pharmaceutical company and a former secretary of the Council on Drugs of the American Medical Association) wrote [19] with Mr. Frank Honicker, Jr. (also a former drug company staff member):

"We understand that the Food and Drug Administration would not at present notify anyone of such reactions (to investigational drugs—Ed.) reported to it, but some in the agency staff recognize that this is not in the best public interest. It is justifiable only so long as the public does not suffer too badly. But must one company duplicate iatrogenic deaths or serious illnesses when another has demonstrated that these occur? Must they even remain unaware of suspected casual relationships before confirmation?"

This, then, is an area for continuing subcommittee effort. We still have a long way to go toward giving the medical staffs of the pharmaceutical industry and of the scientific community, generally, the information they need.

9. PROTECTION OF TRADE SECRETS

Just as the subcommittee is interested in giving the scientific community information to which it is legitimately entitled, so we are interested in protecting genuine "trade secrets" which, under the law, are entitled to the full protection of confidentiality. I, therefore, called FDA's attention to weaknesses in the security of trade secrets, as held in files within the Division of Microbiology. FDA took steps to improve protection there.[20]

Later, when masses of investigational drug applications descended on FDA, as required under the new law, security measures were likewise taken by FDA. A drug trade publication stated: [21]

"FDA, at the urging of Senator HUBERT H. HUMPHREY, Democrat, of Minnesota, set up special security measures to protect the confidentiality of information submitted."

(I may say that, in general, FDA's security protection is still far from optimal; only a small portion of new drug applications file material does consist of genuine trade secrets, but it is not satisfactorily safeguarded.)

10. THE KEFAUVER-HUMPHREY AMENDMENT ON ANIMAL TESTING IN PUBLIC LAW 87-781

The provision of the Kefauver-Harris law with which the subcommittee and I are most closely associated, is the amendment offered by Senator KEFAUVER, with our support, to require that human beings not be used as guinea pigs; that new drugs be tested in animals before being tested in humans.

I had personally cosponsored the amendment. Later I prepared the modification of the amendment, which was enacted into law 2 months earlier, in August 1962, Senator KEFAUVER stated [22] in an address in the Senate:

"The distinguished Senator from Minnesota, chairman of a subcommittee of the Committee on Government Operations, has just held informative hearings pointing up the urgency of doing something about such problems, so that unsafe drugs will not get on the market, so that the Food and Drug Administration will have better controls over testing, and so that tests will be made on animals larger than mice and more resembling man before a drug is distributed to physicians for testing.

* * * * *

"I know that the Senator from Minnesota [Mr. HUMPHREY] is particularly interested in (the) amendment making clear and precise the protection of the public against drugs which caused a near disaster, like thalidomide. * * *

"I want to commend the President, the Senator from Minnesota [Mr. HUMPHREY] and others who are interested in getting corrective legislation for the protection of the health of the people of the Nation to correct serious abuses in the prescription drug field passed as soon as possible.

* * * * *

"This amendment (on animal testing) the Senator from Minnesota [Mr. HUMPHREY] will discuss later, and he has shown fine leadership on it."

On the general effort to strengthen testing, George F. Archambault, D. Sc., Pharm. D., past president, American Pharmaceutical Association, has written: [23]

"Senator HUMPHREY * * * has rendered a most valuable service to the American people by his interest and attention in this vital health problem and legislation."

11. FOSTERING ACTIONS ON SPECIFIC DRUGS

As indicated earlier, I will not attempt to list all the many actions which we have fostered as regards specific drugs. Suffice it to say that physician after physician has contacted us so as to spur FDA to take some particular action on some particular drug. Many physicians had previously been disappointed in the relative lack of attention paid by FDA to prior medical appeals.

These private physicians have expressed the view that the Senate subcommittee has served as a form of lay spokesman—to help in interceding with FDA so as to make sure that expert professional judgment is carefully considered.

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[13] Food Chemical News, Dec. 2, 1963, p. 14.

[14] Reprinted in CONGRESSIONAL RECORD, vol. 108, pt. 4, pp. 5116-1521.

[15] Pt. 2, exhibit 113, p. 696.

[16] "Consumers' Protection and Interest Program," H. Doc. 364, 87th Cong., Mar. 15, 1962, p. 2.

[17] See excerpts from report by President's Science Advisory Committee on Pesticides, reprinted in pt. 3, exhibit 169, p. 1193.

[18] Food Chemical News, Sept. 10, 1963.

[19] "Drug Information for the Bio-Medical Community," op. cit.

[20] Pt. 3, p. 810.

[21] Drug Trade News, July 24, 1963, p. 1.

[22] CONGRESSIONAL RECORD, vol. 108, pt. 11, p. 15529.

[23] "A Drug Moves Into Human Trials: A Close Look at Drug Testing on Human Beings and at the Controls and Safeguards," presented before the Federal Service Pharmaceutical Seminar, American Pharmaceutical Association, Section on Military Pharmacy, at the National Naval Medical Center, Bethesda, Md., "Hospital Management," April 1963, p. 88.

I shall illustrate with but a single case. It involves a drug now on the market—a drug called to my attention literally within the past few days—a drug associated with several deaths. I shall not name the drug because it is still in the process of review by FDA.

An M.D. in one of America's great teaching hospitals called this drug to our attention. The M.D. is the coauthor of an article on this drug in the Journal of the American Medical Association. I promptly took up his letter with FDA. I am now awaiting the agency's reply.

What does this data say? Let me read from his unsolicited letter of December 2, 1963, because it so well illustrates the types of problems we have encountered:

"Let me suggest that a review of the history of (name of drug) will reveal weaknesses at many points in the accepted methods of insuring drug safety. As the facts are known to me, mistakes have been made at the following junctures:

"1. The preclinical data was not encompassing, insufficient emphasis being placed on the physiology of (type of function—ed.).

"2. Prior to unrestricted distribution, no controlled clinical tests were performed in humans on the effect of the drug on either (type of physiological function).

"3. Clinical case reporting as a means of collecting information on drug toxicity, has shown itself to be inefficient and unreliable. It is distressing that 17 cases with 11 deaths are reported from two hospitals. Extrapolation from these figures suggest that the nationwide incidence of acute (type of function) failure and death following (name of drug) must be in excess of one hundred.

"4. The manufacturers have been remiss in their responsibilities of informing the medical profession accurately of the evidence against their product. Further, by continuing to market (name of drug) in face of the mounting evidence against it, they demonstrate a shocking but apparently legal disregard for the public safety.

"5. Once data was accumulated, no responsible party has taken the decisive step to cause the drug to be removed from the market."

There this particular matter now stands. I do not presume to know what the final outcome will be.

I do know that the subcommittee has served to encourage the American medical community into speaking up for its own rights—including its right to have FDA take prompter action than heretofore.

12. FOSTERING INTERNAL IMPROVEMENTS WITHIN THE FOOD AND DRUG ADMINISTRATION

In the final analysis, the future of drug regulation rests, in large part, on the internal excellence within the Food and Drug Administration—excellence in administration, excellence in science. I am glad to state that FDA has been making some progress toward these ends.

The subcommittee's watchful interest has been a factor, we are told. For the first time, a congressional committee has devoted sustained attention to the agency's needs—an agency which tended to be forgotten except in time of some great crisis or tragedy.

But let this point be clear. The most important factor in FDA's improvement is that, for the first time, it is being given the necessary resources to do the job. We should never forget that for many years the executive branch did not request adequate funds for this vital agency. As late as 1956, a mere $6 million was the highest amount that had ever been requested of the Congress. Today, six times that figure is being made available and even that may be insufficient.

As I have stated time after time, it is not fair to expect the impossible from a relative handful of overworked, underpaid, underequipped, underappreciated professional personnel.

On August 23, 1962, I stated [24] in the Senate with respect to FDA's new drug division:

"We cannot expect 12 trained doctors who are overworked, none of them getting more than $15,000 a year—one could make more than that by treating ingrown toenails" (to do the impossible). "Here are professional doctors working their heads and hearts out."

The task of doctors in the Bureau of Medicine is fraught with difficulty. They face the dilemmas of too much regulation or too little regulation, of being too cautious or not being cautious enough, of being too fast to curb use of a drug with serious side effects but some benefits, or too slow.

Unfortunately, FDA has not backed up its own scientists sufficiently. But neither did the Nation back up FDA sufficiently. It is the Nation's achievement that this is now beginning to be corrected.

One of the important factors for FDA progress was the report by the second Citizens Advisory Committee on FDA. It made its report in October 1962. As a result of that report, FDA has made a modest reorganization of its structure, including a reorganization within the Bureau of Medicine. I do not agree with some of the elements in that CAC report, as it is known. But I do regard it as containing many useful suggestions.

Unfortunately, FDA has not been prompt about carrying out many of these suggestions. Even with the subcommittee's constant prodding the agency did not reorganize until as late as 13 months after the report. It has still to establish a National Advisory Council. Such a Council was recommended not only in the 1962 report, but in a series of reports [25] which have been made virtually every single year since 1955.

Here, again, such forward steps as have been taken represent achievements—not on the part of any one source—but on the part of all those interested in a better, stronger FDA. Yet the achievements in certain respects are quite limited. And there is danger in some future steps. A National Advisory Council—if "packed," for example, if filled with self-seeking influences, could become an instrument for reaction and for self-interest, rather than for progress and the public interest. So could specialized advisory panels. "Achievements" must not, therefore, be turned into instruments for turning the clock back to drug abuses.

PART 2. SAMPLING OF LETTERS RECEIVED DURING A SINGLE MONTH—COMMENDING SUBCOMMITTEE'S AND SENATOR HUMPHREY'S DRUG EFFORTS

Chauncey D. Leake, School of Medicine, Department of Pharmacology, San Francisco Medical Center, University of California, San Francisco, Calif. (October 1, 1963): "You are doing so many things of great importance for the health professions and on behalf of the good health of our people that it is increasingly difficult to keep up with you. Congratulations on what you and your committee are accomplishing.

"I have just been able to get around to a study of the committee print entitled 'Drug Literature,' which was issued on August 30, 1963, and which is based on the admirable survey of the nature and magnitude of drug literature, by Winifred Sewell of the National Library of Medicine. With the important appendixes, this is a very helpful and important survey and clearly focuses attention on the magnitude of what confronts us with regard to satisfactory information on drugs."

Paul A. Bunn, M.D., professor of medicine, State University of New York, Upstate Medical Center, Syracuse, N.Y. (Oct. 8, 1963): "You and your committee have done a fine job of organizing and investigating the problems of new agents to be used for the treatment of human ailments. I personally am grateful for that interest."

Harry F. Dowling, M.D., professor of medicine, College of Medicine, University of Illinois, Chicago, Ill. (Oct. 14, 1963): "May I take this opportunity to express my high regard for your zeal in promoting good administration within the Federal service and to wish you success in your efforts."

C. M. Connelly for the editors of the Journal of General Physiology, published by the Rockefeller Institute Press, New York, N.Y. (Oct. 28, 1963): "We commend and support your efforts to improve standards of drug testing."

Scientist (name withheld) in Richardson Merrell Co. (Oct. 11 and 23, 1963): "Your memorandum, code No. H 9–1–63, A, entitled "Correct Drug Weaknesses, Senator HUMPHREY Urges FDA" puts a great deal of emphasis upon MER–29 which was marketed by * * * Richardson-Merrell * * * insofar as I can draw inference from my personal and extensive experience in this corporation I must approve completely everything that you have said about MER–29. Believe me, Senator, you have said some things that I did not know existed."

* * * * *

"I saw a discussion of your remarks to Congress concerning the recent grand jury action in the District of Columbia in which a Maryland physician who has allegedly committed fraud during the testing of certain drugs. The discussion and reproduction of your remarks were in the 'Blue Sheet.' I wish to express complete approval of the sentiments which you placed before Congress. Even the questions which you raise are pertinent, and I do not see how you could honestly have done a better job."

Arthur A. Stein, M.D., professor of pathology, the Albany Medical College of Union University, Albany, N.Y. (Oct. 10, 1963): "The work of the subcommittee is to be seriously and heartily congratulated."

Mr. HUMPHREY. Mr. President, this is, in a sense, an annual report. I have submitted it with my remarks, because I can think of no field which more directly affects the health and well being of our people than the efficacy, the safety, the purity, and the therapeutic effects as well as the side effects of drugs and modern drug therapy.

ORDER OF BUSINESS

Mr. HUMPHREY. Mr. President, I now move, according to the previous order——

Mr. CLARK. Mr. President, will the Senator withhold his motion?

Mr. HUMPHREY. I will, indeed.

Mr. HOLLAND. Mr. President——

The PRESIDING OFFICER. The Senator from Florida.

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

Mr. CLARK. Mr. President, will the Senator withhold?

Mr. HUMPHREY. If Senators will pardon me 1 minute, I had another matter to present.

DESIGNATION OF DECEMBER 17 EACH YEAR AS WRIGHT BROTHERS DAY

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House

[24] CONGRESSIONAL RECORD, vol. 108, pt. 13, page 17388.

[25] Pt. 3, exhibit 138, p. 978.

Joint Resolution 335, to designate the 17th day of December each year as Wright Brothers Day.

Mr. HOLLAND and Mr. CLARK addressed the Chair.

The PRESIDING OFFICER. Will the Senator send the resolution to the desk?

Mr. HOLLAND. Mr. President, I shall be glad to yield to the Senator from Pennsylvania, if he wishes me to do so, but I should like to maintain my right to the floor, so that I may suggest the absence of a quorum.

Mr. HUMPHREY. I believe I did not relinquish the floor. Have I the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. CLARK. Mr. President, will the Senator yield to me?

Mr. HUMPHREY. First I should like to let the Senator from Florida know that I merely wish to clarify this point and then I shall yield the floor.

I yield to the Senator from Pennsylvania?

Mr. CLARK. Is my understanding correct that when the Senator finishes it is his intention, as majority whip, to move the adjournment of the Senate?

Mr. HUMPHREY. Yes.

Mr. CLARK. So there would be no need for a quorum call, unless my friend the Senator from Florida insists.

Mr. HOLLAND. I shall be happy to yield to the Senator for that purpose. I am merely trying to get the Senate through its business with the least difficulty from now to the time of adjournment.

Mr. HUMPHREY. Mr. President, is there objection to my request that the committee be discharged?

The PRESIDING OFFICER. Is there objection to the request by the Senator from Minnesota? The Chair hears none, and it is so ordered.

The Chair lays before the Senate House Joint Resolution 335, which will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A joint resolution (H.J. Res. 335) designating the 17th day of December of each year as Wright Brothers Day.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the joint resolution.

Mr. HUMPHREY. Mr. President, I offer an amendment, on line 9, page 1, after the word "issue" to insert the word "annually".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Minnesota.

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 of the amendment and the third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 335) was read the third time and passed.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Senate reconsider the vote by which Senate Joint Resolution 124 was passed.

Mr. HOLLAND. Mr. President, what is the Senator's request?

Mr. HUMPHREY. To reconsider the vote on Senate Joint Resolution 124.

Mr. HOLLAND. On what subject?

Mr. HUMPHREY. Designating the 17th day of December of each year as Wright Brothers Day.

Mr. HOLLAND. I have no objection.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Minnesota? The Chair hears none, and it is so ordered.

Mr. HUMPHREY. Mr. President, I also ask unanimous consent that Senate Joint Resolution 124 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Minnesota? The Chair hears none, and it is so ordered.

Mr. HUMPHREY. I now yield the floor.

Mr. RANDOLPH. Mr. President, I am gratified by the Senate's action in passing House Joint Resolution 335, which would designate December 17 as Wright Brothers Day in commemoration of that historic first flight 60 years ago.

As a Member of the House of Representatives, I was one of the cosponsors some years ago of a resolution establishing August 19, the anniversary date of the birth of Orville Wright, as National Aviation Day. It seems most fitting that December 17 now be set aside in special commemoration of the imagination and pioneering spirit of the Wright brothers.

It would be appropriate at this time, and I ask unanimous consent to have printed in the RECORD a recent letter from the National Aeronautics Association to President Johnson requesting that he proclaim December 17 as Wright Brothers Day.

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

DECEMBER 4, 1963.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: December 17, 1963, marks the 60th anniversary of powered flight. An extensive program is being planned for December 16 and 17 at Kitty Hawk, N.C., to commemorate the historic achievements of the Wright brothers there in 1903. In addition, there will be special commemorative events held in major cities across the country, honoring the Wright brothers, climaxed by the Aero Club of Washington's memorial banquet here on December 17.

In March of this year House Joint Resolution 335 was introduced in the House of Representatives, calling for the designation of December 17 each year as Wright Brothers Day. This bill passed the House on October 7 and was forwarded to the Senate for action. It was referred to the Senate Committee on the Judiciary, where it now is. There is a question as to whether the bill will be acted on by the Senate before the historic date of December 17.

In view of the above, and the importance of flight to our Nation's cultural and economic development and to our security, we would appreciate very much receiving a message from the President regarding the historic significance of this 60th anniversary and the impact of the Wright brothers' achievements at Kitty Hawk in 1903.

We have taken the liberty of attaching a suggested statement for reference. In waiting for Senate action on House Joint Resolution 335, we have only a short period of time remaining before December 17 to distribute a statement by the President. Therefore, it would be greatly appreciated if such a statement could be received at an early date. Thank you for your consideration.

Very respectfully yours,

RALPH V. WHITENER,
Chairman, 60th Anniversary of Flight Program Committee.

Mr. HOLLAND and Mr. CLARK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. HOLLAND. Mr. President, I am glad to yield to the Senator from Pennsylvania.

CREATION OF JOINT COMMITTEE TO STUDY THE ORGANIZATION AND OPERATION OF CONGRESS

The Senate resumed the consideration of the motion to proceed to the consideration of concurrent resolution (S. Con. Res. 1) to create a joint committee to study the organization and operation of the Congress and recommend improvements therein.

Mr. CLARK. Mr. President, it is now obvious that it will be impossible to bring the motion to consider Senate Concurrent Resolution 1 to a vote before the leadership exercises its unquestioned right to move to adjourn the Senate this afternoon. This I deeply deplore. I am confident that if the motion to consider Senate Concurrent Resolution 1 could have been brought to a vote it would have been approved by a substantial majority of the Senate.

I see no point in continuing the obvious condition in which we find ourselves. It is clear to me, for reasons which I understand, although certainly I do not approve, that the leadership has no stomach for an effort to bring the motion to consider Senate Concurrent Resolution 1 to a vote; and, without the support of the leadership, it obviously will be impossible for those of us who feel deeply about this matter to bring the matter to a vote or even, as I suggested earlier today, to keep the Senate in continuous session, to see if we could not break the filibuster against considering the resolution.

A word should be said about that filibuster. It has not been very obvious, either yesterday or today. That was because it need not be. There was never a time when some business did not have to be transacted in the national interest, or when some Senator did not wish to speak, on a variety of other subjects. Since there is no rule of germaneness in the Senate, that is within the purview of the Senate rules.

I am about to relinquish the floor, defeated again—not for the last time.

Someday—I hope before I die or leave the Senate—we shall beat this vicious custom of preventing a majority of the Senate from acting when a majority is ready to act. That is not today.

Yesterday I committed myself to the Senator from Oklahoma [Mr. MONRONEY] to place in the RECORD today those rules, practices, procedures and floor actions other than rule XXII which I thought should be the subject of consideration by the joint committee envisioned in Senate Concurrent Resolution 1 and which I believed it would be difficult, if not impossible, for the joint committee to consider if the amended resolution as brought to the floor by the Committee on Rules and Administration instead of the original resolution cosponsored by 31 Senators were enacted.

These are the Senate rules which I believe should be studied, amplified, amended, and probably changed, as a result of the consideration of such a joint committee: Rules IV, V, VII, VIII, IX, X, XI, XII, XIV, XV, XIX, XXII, XXIV, XXV, XXVII, XXXII, XXXIV, XXXV.

There are a number of other matters which I fear, as a lawyer, would come within the prohibition for the joint committee to consider in dealing with the rules, practices, procedures, or floor action of either body. Among them would be an appropriate answer to the conflict-of-interest problem; an appropriate reorganization of the practices of the Senate which result from the actions of the Republican and Democratic steering and policy committees and the Republican and Democratic conferences; the 21-day rule in the House; the question of the power of the House Rules Committee; questions which I have raised as to whether we should not, as has been done in the judiciary, impose a limitation on the age at which Members of the House and of the Senate could continue to serve as chairmen of committees; a new procedure or practice, or rule, which would require recommendations of the President of the United States to be passed upon by both Houses of Congress within 6 months of the date of their submission to Congress, hopefully by July 4 or shortly thereafter.

I say passed upon. I do not mean adopted. I mean adopted, rejected, or passed with amendment.

The conduct of committee business is another matter, I fear, which would not be within the purview of the committee, as it too involves a question of rules, practices, and procedures.

With respect to floor action, I would strongly advocate, as a timesaver, the installation of voting machines in this body and in the House, as has been done in so many other legislative bodies.

I would like to see, for the benefit of Senators with a somewhat less foghorn-type voice than I have, the installation of microphones. Many of our beloved colleagues on the other side of the aisle, being unused, perhaps, as Republicans, to roaring at the hustings, as we Democrats are accustomed to do, have difficulty in making themselves heard across the center aisle.

This is an entirely incomplete list. I insert it in the RECORD only because I promised the Senator from Oklahoma I would.

I thank the Senator from Florida, with his invariable courtesy, for yielding.

Mr. HOLLAND. Mr. President, I do not know why the Senator made reference to a filibuster. This is the first word the Senator from Florida has had to say on the matter. He has not been conscious of a filibuster, but to the contrary, almost every time the Senator from Florida has been on the floor, a Senator has been speaking who has no relation to that minority of the Senate which is supposed to indulge from time to time in filibusters, which it has not done this year.

The Senator is in error in believing that a majority of the Senate is in accord with what he is trying to do, because I cannot conceive of any majority of the Senate being willing to submit to having its rules, practices, precedents, and matters of that kind decided in part by Members of the other body, which has entirely different format for the handling of its business, and needs to have a different set of rules.

So I think the Senator is in error in believing that a majority of the Senate is with him.

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

Mr. HOLLAND. I yield.

Mr. CLARK. The question now before the Senate is a motion to take up Senate Concurrent Resolution 1. The Senator from Florida may well be correct—I do not know whether he is or not—as to whether or not a majority of the Senate would support the amendment jointly to be offered by the Senator from New Jersey [Mr. CASE], the Senator from New York [Mr. KEATING], and myself. I have no doubt that on a motion to take up, a majority of the Senate, if permitted to vote, would vote in the affirmative.

Mr. HOLLAND. There is an honest difference of opinion on that question. There is a serious question as to whether a majority of the Senate would want the rules, practices, and procedures of the Senate determined in part by Members of the other body. The traditions, the background, and the organization of the two bodies serving at opposite ends of the Capitol are so different that it is inconceivable to me that a majority of the Senate would agree to have Members of the other body redraft or recast its rules, or that Members of the House would agree to have Members of this body redraft or recast its rules, procedures, and precedents.

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

Mr. HOLLAND. I yield.

Mr. CLARK. I say again, with all deference and the utmost respect, that the Senator's argument is irrelevant and immaterial to the issue before the Senate, which is whether the Senate shall take up consideration of Senate Concurrent Resolution 1, as reported by the Committee on Rules and Administration, which has not incorporated in it the amendment to which the Senator from Florida refers. The question of whether the Case-Clark amendment shall be adopted is not before the Senate. The question is whether the motion to take up the resolution, made by the majority leader, shall be granted.

The point the Senator from Florida makes becomes pertinent only if that motion is approved, and only if the Case-Clark amendment is called up for discussion. It is not now relevant.

Mr. HOLLAND. I recognize the accuracy of that statement from the standpoint of the immediate situation, but lying on the desks of Senators is the printed amendment which would accomplish the Senator's purpose. So notice is given in advance that it will be proposed by the Senator from Pennsylvania and his colleague the Senator from New Jersey. We all know that this particular amendment would restore a large part of the philosophy of the original proposed concurrent resolution which was submitted by the Senator from Pennsylvania, the Senator from New Jersey, and the other Senators, and which was considered by the Committee on Rules and Administration of the Senate. A resolution in amended form was reported by that committee, and it was that resolution with respect to which a motion to take up was made.

I believe that all Senators considering this question have complete knowledge of the fact that the real point at issue is the matter contained in the original resolution, Senate, Concurrent Resolution 1, submitted by the Senator from Pennsylvania and other Senators, and to which I think a large majority of the Senate strongly objects—to which certainly the Senator from Florida objects—that is, of allowing Members of the other body to have any part in formulating the rules of the Senate or Members of the Senate to have any part in formulating the rules of the other body.

That is the real issue as I see it, and it is before the Senate because of the presence on the desk of each Senator of the printed amendment and because of the statement made by the Senator from Pennsylvania at the beginning of the debate to the effect that he intended to try to have the resolution restored as he originally submitted it, rather than as it was reported by the committee.

I quote from the amendment as printed and as it lies on Senators' desks:

(11) The rules, parliamentary procedure, practices, precedents of each House of Congress, and the consideration of any matter on the floor of each House.

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

Mr. HOLLAND. I yield.

Mr. CLARK. If the Senator is so sure that he is correct, and if he is so sure that a majority of the Senate would reject the amendment, why are he and his colleagues unwilling to allow the Senate to vote on the matter, but, instead, resort to the filibuster?

Mr. HOLLAND. In the first place, I have not been resorting to any filibuster, nor have I heard of any. In the second place, we are wasting a great deal of time which we cannot afford to waste. We are trying to dispose of the business of the Senate and of the Congress by December 20. We have all we can say grace over to do that. As the Senator from Florida said the other day on the

floor, he has been busy literally day and night in appropriation's conferences, in the Committee on Agriculture, and in other important matters, in trying to carry on the work of the Senate, and as a result has been only rarely able to come to the floor of the Senate.

He believes that most Members of the Senate are just as busy in the effort to dispose of the business of the Senate in the short time remaining before we adjourn.

The Senator from Florida feels that there would be no justification in plunging into a long discussion, which apparently would take place when the Senator from Pennsylvania called up his amendment.

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

Mr. HOLLAND. I shall be glad to yield. Before I do so, I wish to say that the Senator from Florida has in his mind a memory of some of the long discussions on their matter that were had during this session and during the last session of Congress by the Senator from Pennsylvania and by his colleagues who joined him.

Every Senator is entitled to his convictions in joining in the presentation of this particular concurrent resolution, Senate Concurrent Resolution 1. The Senator from Florida felt, however, that, instead of there being a filibuster now, there would have been in the offing a filibuster if we had permitted this matter in which the distinguished Senator from Pennsylvania and his associates are really interested, which is represented in the amendment which lies on Senators' desks, to be brought up now.

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

Mr. HOLLAND. I yield.

Mr. CLARK. All that the Senator has to do, if he thinks he is right, is, when the amendment is called up, to move to table the amendment, and in 10 minutes he can have the validity of his conviction tested.

Mr. HOLLAND. In the first place, the Senator from Florida does not believe in dealing in such a summary fashion with matters with respect to which Senators have a great interest or strong convictions such as in this matter.

I do not believe I have ever made a motion to table, except on one occasion, and that was during the debate on the tidelands bill, when the Senator from Alabama, a friend of the Senator from Florida, had an amendment which had been pending for several days. I went over to my friend, the Senator from Alabama, and asked him if he would have any objection if I made a motion to table the amendment. He said, "No; it is probably a very good way to bring it to a head."

I do not remember making any other motion to table. That is not my way of transacting the business of the Senate.

Mr. CLARK. I am sure that it would be possible to have a Senator on this side of the question move to table the amendment if it offended the sensibilities of my good friend from Florida to do so. If the worse came to worst, I would be glad to make the motion to table myself.

Mr. HOLLAND. The Senator from Florida is not accustomed to being on both sides of an issue. It never occurred to him that the Senator from Pennsylvania would wish to be in that position.

Mr. CLARK. The Senator may remember that at the request of the then majority leader, now President of the United States Johnson, I had no hesitation in moving to table the civil rights bill, because I thought it was in the best interest of the Senate to find out whether there were votes enough to pass it. I would be glad to do the same thing now.

Mr. HOLLAND. The Senator from Pennsylvania is certainly forthright.

Mr. RUSSELL. Mr. President, I desire to say only a word with respect to the matter that was discussed by the Senator from Pennsylvania and the Senator from Florida. I have been unable to be in the Chamber this afternoon because I have been engaged in other matters. I was not present yesterday.

I now find that I have been charged with conducting a filibuster. I have long since become insensitive to any great pain as a result of that charge, and I do not object to it particularly in this instance. But it is rather strange that I should be charged with a filibuster when I had not been able to be on the floor and unable to be on Capitol Hill.

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

Mr. RUSSELL. I was not able to be on Capitol Hill, yesterday afternoon and even this afternoon. Therefore, any filibuster in which I have been engaged must have been conducted by remote control.

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

Mr. RUSSELL. I yield.

Mr. HOLLAND. The distinguished Senator from Georgia is one of seven members of the Commission named by the President of the United States, which performs the very important duty for the Nation of finding out and announcing to the public everything that can be discovered in connection with the assassination of our late, beloved President.

I know that he has been in two of those meetings. I cannot conceive of anyone having charged him with filibustering, when everyone knows that attending those meetings has been his preferred duty on those 2 days.

Mr. RUSSELL. I appreciate the Senator's statement. I have no apology to make to anyone, anywhere, at any time for my position that the Senate of the United States through its own legislative machinery is perfectly capable of amending its own rules and that it is not necessary to seek a guardian or someone in loco parentis on the other side of the Capitol to compose rules for the operation of the Senate.

I realize that there are those who believe that parliamentary bodies are outmoded and no longer have any place in the scheme of government, and that, instead, a group of intellectuals should sit down and decide what is best for the people, and issue flaming edicts or ukases that would have the effect of law and which every person would immediately have to follow, under pain of some dire penalty being inflicted.

I do not believe that democracy has failed or that our republican system of government has failed, or is about to fail. I believe it is strong and vigorous today. I believe it is the light of hope that shines throughout the world for all men.

We have had an illustration of it in the past few days. Where else, Mr. President, can the power of government be transferred without the slightest confusion, without any chaos, without any controversy, or without shedding the blood of many people?

There are very few countries on this earth where the power of government can be transferred, either in the wake of some great tragedy, such as has befallen our country, or as the result of an election, as can be done in these United States.

It is done in Great Britain, but it has not always been the case there. There have been many times in Great Britain when the power to transfer the government resulted in internal wars, dissension, and misbehavior; but there has never been a time when the transfer of the power of government in Washington has caused any confusion. That is a great tribute to the American people.

It is a high tribute to the majesty of our form of government that even in the pain and sorrow that follow the assassination of a President or the bitterness that remains in the wake of a political campaign, the power of the government in this country is transferred from one hand to another without any war, without any death, without multitudes in the streets or troops firing on the people or students demonstrating, as is the case in so many other countries. Why is that so? It is because of the wonderful system of government that was devised by the Founding Fathers.

Here we have a legislative body that gives to every person, even in the most remote part of our land, a feeling that he has a voice in Washington. There is no need for him to get his shotgun or to go into the streets to protest, because he can write a letter to his Senator or Representative. He is represented in the legislative branch, in the executive branch by the President, who has been elected, and by the judiciary, as well. He is protected by the balances of our system of three equal and coordinate branches of government.

Mr. President, if ever that system should be struck down, if ever Congress should be emasculated and made a mere figurehead, it would not be possible to transfer the power of government in this country without bloodshed, without confusion, not only in Washington, but throughout the length and breadth of the land.

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

Mr. RUSSELL. I yield.

Mr. HOLLAND. I appreciate what the distinguished Senator from Georgia is saying. It should be in the record. The public should think along the lines that he is suggesting.

I should like to have the Senator recall, if he will, that as far back as 1877, when there was trouble over the question of who had been elected in this great country, and when each party claimed it had won the election—the contest, as will be remembered, was between Tilden and Hayes, inauguration day was approaching, and the question still had not been cleared up—Congress appointed a commission to hear the evidence. The evidence was taken, and the commission, not by a unanimous vote, but by a simple majority, decided that one of those two men, Rutherford B. Hayes, was the duly elected President. Everyone accepted the decision. The inauguration took place without incident. The Government passed from one President to another.

That was at a time shortly after the great division in our country which is referred to as the War Between the States or the Civil War. Yet even in those days and at that time the decision of that commission was respected and was followed, and a peaceful government immediately took office following the inauguration on March 4. Does the Senator from Georgia recall that?

Mr. RUSSELL. I do. The occurrence the Senator describes graphically illustrates the value of Congress. Congress had to provide the machinery for determining the election. If the President had undertaken to do so on a purely partisan basis, without both parties being represented, there would have been war at that time throughout the country. Already men were gathering around the courthouses, so our histories tell us, bringing their weapons with them and preparing to move on to Washington to fight for their respective nominees, both of whom claimed the election.

But the fact that Congress was present and had the same rules that some Senators want to have abolished made it certain that every person was represented by a Member of Congress who took part in that decision, thus avoiding a great calamity—not merely a sectional strife, but an internal civil war that might have resulted in bloodshed on the streets of every community in the land where the two parties were represented.

I have no apologies whatever for my insistence that the Senate is capable of making its own rules. The distinguished Senator from Pennsylvania [Mr. CLARK] is a member of the Committee on Rules and Administration. He can submit resolutions, to be referred to that committee, world without end—and he has almost done that. He has done so in every form, shape, and fashion; but few of them have come to the floor of the Senate.

Yet anyone who opposes his own peculiar ideas about how Congress should be regimented and made over completely servile to the executive branch or totally innocuous as an organ of Government is, in his eyes, either a reactionary or a filibusterer.

For my part, I would be ashamed to charge filibustering to anyone after the little discussion that has taken place on the motion made late yesterday afternoon. This is merely a powderpuff effort to bring up a resolution. It is not even a "pillow fight."

I noticed that the distinguished Senator from Pennsylvania said he was getting ready to publish another book, to be entitled "Congress, the Withered Branch." I suppose he will point to this resolution as a glowing illustration of the complete ineffectiveness of Congress and its inability to serve the people of the United States. I hope the Senator from Pennsylvania will make a more determined effort than that before he undertakes to use this kind of speech as the wellspring for a book that would prove that Congress is merely a withered branch.

Mr. HOLLAND. Mr. President, will the Senator from Georgia further yield?

Mr. RUSSELL. I yield.

Mr. HOLLAND. Does the Senator from Georgia recall that the new President, President Johnson, in his able, eloquent address before the joint meeting of the two Houses of Congress last Wednesday, found opportunity to express his belief in the independence and integrity of the legislative branch, and stated he would never do anything to destroy either?

Mr. RUSSELL. The President showed a fine comprehension of where the great strength of our Government reposes—namely, in the division of powers through the system of checks and balances, under which none of the three branches can run roughshod over the others, but where there must be a coordination of effort and of understanding under, praise God, a written Constitution. Even if we depart from it at times, the Constitution stands like a beacon light, to which we can return when we have seen the error of our ways. We can come back to the landmarks that our fathers have set.

Congress is serving its purpose. If the time ever comes when Congress thinks it is functus officio, that it has no other purpose or meaning, and abolishes itself, we will see the saddest day that has ever arrived, because when we destroy any of the three branches of Government, it will mean the complete destruction of the American way of life and the death of liberty and the privileges of the American citizen.

ROCKEFELLER PUBLIC SERVICE AWARDS

Mr. HUMPHREY. Mr. President, after listening to the remarkable addresses that have been delivered today, I wish to place in the RECORD an admirable address delivered by the Senator from Arkansas [Mr. FULBRIGHT], chairman of the Committee on Foreign Relations. The Senator from Arkansas delivered the address on the occasion of the Rockefeller Public Service Awards to those persons who had gained distinction in the career of government service. Chairman FULBRIGHT was present to honor five distinguished award winners for 1963: Mr. Weber, Mr. Loomis, Mr. Marcy, Mr. Wessenauer, and Mr. Astin, all career government servants.

I wish to note in particular, for special emphasis, that Dr. Carl Marcy, chief of staff of the Committee on Foreign Relations, was one of the recipients of the Rockefeller Public Service Awards. Dr. Marcy is a gifted, talented man. He is an extremely able individual and has given wonderful service and guidance to the Committee on Foreign Relations. He is highly respected by every member of the committee, regardless of party.

I invite the attention of Senators in particular to Senator FULBRIGHT'S message in reference to some of the developments in our social and political structures in the United States. He made an eloquent plea for tolerance and understanding, and a fearless attack upon the voices of hatred, bigotry, and intolerance. His was a remarkable address—not merely a speech. It was a scholarly approach to the complex subjects of this nature, and was most characteristic of the Senator from Arkansas. I ask unanimous consent that the entire text of his address be printed in the RECORD.

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

THE AMERICAN CHARACTER

(Address by Senator FULBRIGHT, chairman, U.S. Senate Committee on Foreign Relations, at Rockefeller public service awards presentation luncheon, Shoreham Hotel, Washington, D.C. December 5, 1963)

It is an honor and a privilege for me to participate in this presentation of the Rockefeller Public Service Awards for 1963. These awards are the highest and most valued honor accorded by a private source for career Government service. The recipients, both past and present are outstanding public servants who have served their country with intelligence and dedication. We are all indebted to Mr. John D. Rockefeller, III, for making these awards possible and to Princeton University for its administration of the award program as a national trust.

I am indeed pleased to join in honoring the five distinguished award winners for 1963: Mr. Weber, Mr. Loomis, Mr. Marcy, Mr. Wessenauer, and Mr. Astin. If I may inject a personal note, I should like to express my pride and pleasure—which I know is shared by every member of the Senate Foreign Relations Committee—that one of the winners is Mr. Carl Marcy, our committee chief of staff.

As we mourn the death of President Kennedy, it is fitting that we reflect on the character of our society and ask ourselves whether the assassination of the President was merely a tragic accident or a manifestation of some deeper failing in our lives and in our society.

It may be that the tragedy was one which could have occurred anywhere at any time to any national leader. It may be that the cause lies wholly in the tormented brain of the assassin. It may be that the Nation as a whole is healthy and strong and entirely without responsibility for the great misfortune which has befallen it. It would be comforting to think so.

I for one do not think so. I believe that our society, though in most respects decent, civilized, and humane, is not, and has never been, entirely so. Our national life, both past and present, has also been marked by a baleful and incongruous strand of intolerance and violence.

It is in evidence all around us. It is in evidence in the senseless and widespread crime that makes the streets of our great cities unsafe. It is in evidence in the malice and hatred of extremist political movements. And it is in evidence in the cruel bigotry of race that leads to such tragedies as the killing of Negro children in a church in Alabama.

We must ask ourselves many questions about this element of barbarism in a civilized society. We must ask ourselves what its sources are, in history and in human nature. We must ask ourselves whether it is the common and inevitable condition of man or whether it can be overcome. And if we judge that it can be overcome, we must ask ourselves why we Americans have not made greater progress in doing so. We must ask ourselves what, if anything, all this has to do with the death of our President. Finally, and most important, we must ask ourselves what we must do, and how and when, to overcome hatred and bigotry and to make America as decent and humane a society as we would like it to be.

I do not pretend to be able to answer these questions. I do suggest, however, that the conditions of our time call for a national self-examination although the process may be a long and difficult and painful one. I further suggest, and most emphatically, that if such a national self-examination is to be productive it must be conducted in a spirit of tolerance rather than anger, serenity rather than guilt, and Christian charity rather than crusading moralism.

We might begin our reflections about ourselves by an examination of the effects of crusading self-righteousness, in the history of Western civilization and in our own society.

Moral absolutism—righteous, crusading, and intolerant—has been a major force in the history of Western civilization. Whether religious or political in form, movements of crusading moralism have played a significant, and usually destructive, role in the evolution of Western societies. Such movements, regardless of the content of their doctrines, have all been marked by a single characteristic: The absolute certainty of their own truth and virtue. Each has regarded itself as having an exclusive pipeline to Heaven, to God, or to a deified concept of history—or whatever is regarded as the ultimate source of truth. Each has regarded itself as the chosen repository of truth and virtue and each has regarded all nonbelievers as purveyors of falsehood and evil.

Absolutist movements are usually crusading movements. Free as they are from any element of doubt as to their own truth and virtue, they conceive themselves to have a mission of spreading the truth and destroying evil. They consider it to be their duty to regenerate mankind, however little it may wish to be regenerated. The means which are used for this purpose, though often harsh and sometimes barbaric, are deemed to be wholly justified by the nobility of the end. They are justified because the end is absolute and there can be no element of doubt as to its virtue and its truth.

Thus it is that in the name of noble purposes men have committed unspeakable acts of cruelty against one another. The medieval Christians who burned heretics alive did not do so because they were cruel and sadistic; they did it because they wished to exorcise evil and make men godly and pure. The Catholic and Protestant armies which inflicted upon Europe 30 years of death and destruction in the religious wars of the 17th century did not do so because they wished anyone harm; on the contrary, they did it for the purpose of saving Christendom from sin and damnation.

In our own time the crusading movements have been political rather than religious, but their doctrines have been marked by the same conviction of absolute truth and the same zeal to perpetuate it. Thus the German Nazis, with their fervent belief in a primitive racial myth, murdered 6 million Jews in their zeal to elevate mankind by ridding it of a race that they deemed venal and inferior. Similarly, the Russian Communists under Stalin, who, as Djilas writes, was a man "capable of destroying nine-tenths of the human race to 'make happy' the one-tenth"—killed millions of their own people and consigned countless others to the slave labor camps of Siberia in order to pave the way for a society in which all men should be equal and happy and free. And the Chinese Communists of the present are able to contemplate with equanimity a nuclear war in which hundreds of millions would be killed because of their conviction that such a war would destroy capitalism and lead to a higher and nobler civilization.

The strand of fanaticism and violence has been a major one in Western history. But it has not been the only one, nor has it been the dominant one in most Western societies. The other strand of Western civilization, conceived in ancient Greece and Rome and revived in the European age of reason, has been one of tolerance and moderation, of empiricism and practicality. Its doctrine has been democracy, a radically different kind of doctrine whose one "absolute" is the denial of absolutes and of the messianic spirit. The core of the democratic idea is the element of doubt as to the ability of any man or any movement to perceive ultimate truth. Accordingly, it has fostered societies in which the individual is left free to pursue truth and virtue as he imperfectly perceives them, with due regard for the right of every other individual to pursue a different, and quite possibly superior, set of values.

Democratic societies have by no means been free of self-righteousness and the crusading spirit. On the contrary, they have at times engaged in great crusades to spread the gospel of their own ideology. Indeed, no democratic nation has been more susceptible to this tendency than the United States, which in the past generation has fought one war to "make the world safe for democracy," another to achieve nothing less than the "unconditional surrender" of its enemies, and even now finds it possible to consider the plausibility of "total victory" over communism in a thermonuclear war.

It is clear that democratic nations are susceptible to dogmatism and the crusading spirit. The point, however, is that this susceptibility is not an expression but a denial of the democratic spirit. When a free nation embarks upon a crusade for democracy, it is caught up in the impossible contradiction of trying to use force to make men free. The dogmatic and crusading spirit in free societies is an antidemocratic tendency, a lingering vestige of the strand of dogmatism and violence in the Western heritage.

Although no Western nation has completely dispelled the absolutist spirit of the crusades and the religious wars, some have been more successful than others. The most successful of all, I believe—at least among those nations which have had an important impact on the world beyond their own frontiers—has been England. For a number of complex historical reasons, while most of Europe remained under absolute monarchs and an absolute church, England evolved very gradually into a pluralistic society under a constitutional government. By the time of the establishment of the English colonies in the new world, the evolution toward constitutional democracy was well advanced. The process quickly took hold in the North American colonies and their evolution toward democracy outpaced that of the mother country. This was the basic heritage of America—a heritage of tolerance, moderation, and individual liberty that was implanted from the very beginnings of European settlement in the new world. America has quite rightly been called a nation that was born free.

There came also to the new world the Puritans, a minor group in England who became a major force in American life. Their religion was Calvinism, an absolutist faith with a stern moral code promising salvation for the few and damnation for the many. The intolerant, witchhunting Puritanism of 17th-century Massachusetts was not a major religious movement in America. It eventually became modified and as a source of ethical standards made a worthy contribution to American life. But the Puritan way of thinking, harsh and intolerant, permeated the political and economic life of the country and became a major secular force in America. Coexisting uneasily with our English heritage of tolerance and moderation, the Puritan way of thinking has injected an absolutist strand into American thought—a strand of stern moralism in our public policy and in our standards of personal behavior.

The Puritan way of thinking has had a powerful impact on our foreign policy. It is reflected in our traditional vacillation between self-righteous isolation and total involvement and in our attitude toward foreign policy as a series of idealistic crusades rather than as a continuing defense of the national interest. It is reflected in some of the most notable events of our history: in the unnecessary war with Spain, which was spurred by an idealistic fervor to liberate Cuba and ended with our making Cuba an American protectorate; in the war of 1917, which began with a national commitment to "make the world safe for democracy" and ended with our repudiation of our own blueprint for a world order of peace and law; in the radical pacifism of the interwar years which ended with our total involvement in a conflict in which our proclaimed objective of "unconditional surrender" was finally achieved by dropping atomic bombs on Hiroshima and Nagasaki.

Throughout the 20th century American foreign policy has been caught up in the inherent contradiction between our English heritage of tolerance and accommodation and our Puritan heritage of crusading righteousness. This contradiction is strikingly illustrated by the policy of President Wilson in World War I. In 1914 he called upon the American people to be neutral in thought as well as in their actions; in early 1917, when the United States was still neutral, he called upon the belligerents to compromise their differences and accept a "peace without victory"; but in the spring of 1918, when the United States had been involved in the war for a year, he perceived only one possible response to the challenge of Germany in the war: "Force, force to the utmost, force without stint or limit, the righteous and triumphant force which shall make right the law of the world, and cast every selfish dominion down in the dust."

The danger of any crusading movement issues from its presumption of absolute truth. If the premise is valid, then all else follows. If we know, with absolute and unchallengeable certainty, that a political leader is traitorous, or that he is embarked upon a course of certain ruin for the Nation, then it is our right, indeed our duty, to carry our opposition beyond constitutional means and to remove him by force or even murder. The premise, however, is not valid. We do not know, nor can we know, with absolute certainty that those who disagree with us are wrong. We are human and therefore fallible, and being fallible, we cannot escape the element of doubt as to our own opinions and convictions. This, I believe, is the core of the democratic spirit. When we acknowledge our own fallibility, tolerance and compromise become possible and fanaticism becomes absurd.

Before I comment on recent events, it is necessary to mention another major factor in the shaping of the American national character. That factor is the experience of the frontier, the building of a great nation out of a vast wilderness in the course of a single century. The frontier experience taught us the great value of individual initiative and self-reliance in the development of our resources and of our national economy. But the individualism of the frontier,

largely untempered by social and legal restraints, has also had an important influence on our political life and on our personal relations. It has generated impatience with the complex and tedious procedures of law and glorified the virtues of direct individual action. It has instilled in us an easy familiarity with violence and vigilante justice. In the romanticized form in which it permeates the television and other mass media, the mythology of the frontier conveys the message that killing a man is not bad as long as you don't shoot him in the back, that violence is only reprehensible when its purpose is bad and that in fact it is commendable and glorious when it is perpetrated by good men for a good purpose.

The murder of the accused assassin of President Kennedy is a shocking example of the spirit of vigilante justice. Compounding one crime with another, this act has denied the accused individual of one of the most basic rights of a civilized society: The right to a fair trial under established procedures of law. No less shocking are the widespread expressions of sympathy and approval for the act of the man who killed the accused assassin. Underlying these expressions of approval is an assumption that it is not killing that is bad but only certain kinds of killing, that it is proper and even praiseworthy for a citizen to take justice into his own hands when he deems his purpose to be a just one or a righteous act of vengeance. This attitude is a prescription for anarchy. Put into general practice, it would do far more to destroy the fabric of a free society than the evils which it purports to redress.

The mythology of the frontier, the moral absolutism of our puritan heritage, and of course other factors which I have not mentioned, have injected a strand of intolerance and violence into American life. This violent tendency lies beneath the surface of an orderly, law-abiding democratic society, but not far beneath the surface. When times are normal, when the country is prosperous at home and secure in its foreign relations, our violent and intolerant tendencies remain quiescent and we are able to conduct our affairs in a rational and orderly manner. But in times of crisis, foreign or domestic, our underlying irrationality breaks through to become a dangerous and disruptive force in our national life.

Since World War II times have not been normal; they are not normal now, nor are they likely to be for as far into the future as we can see. In this era of nuclear weapons and cold war, we live with constant crises and the continuing and immediate danger of incineration by hydrogen bombs. We are a people who have faced dangers before but we have always been able to overcome them by direct and immediate action. Now we are confronted with dangers vastly greater than we or any other nation has ever before known and we see no end to them and no solutions to them. Nor are there any solutions. There are only possibilities, limited, intermittent, and ambiguous, to alleviate the dangers of our time. For the rest, we have no choice but to try to live with the unsolved problems of a revolutionary world.

Under these conditions, it is not at all surprising that the underlying tendencies toward violence and crusading self-righteousness have broken through the surface and become a virulent force in the life and politics of the postwar era. They have not thus far been the dominant force because the Nation has been able to draw on the considerable resources of wisdom, patience, and judgment which are the core of our national heritage and character. The dominance of reason, however, has been tenuous and insecure and on a number of occasions in these years of crisis we have come close to letting our passions shape critical decisions of policy.

American politics in the postwar period has been characterized by a virulent debate between those who counsel patience and reason and those who, in their fear and passion, seem ever ready to plunge the Nation into conflict abroad and witch hunts at home. As the years of crisis have gone on, the politics of the Nation have been poisoned by the increasingly irresponsible charges of those zealots who, as President Kennedy would have said in his undelivered Dallas speech, assume that "words will suffice without weapons, that vituperation is as good as victory, and that peace is a sign of weakness."

The voices of suspicion and hate have been heard throughout the land. They were heard a decade ago when statesmen, private citizens, and even high-ranking members of the armed forces were charged with treason, subversion, and communism, because they had disagreed with or somehow displeased the Senator from Wisconsin, Mr. McCarthy. They are heard today when extremist groups do not hesitate to call a former President or the Chief Justice of the United States a traitor and a Communist. They are heard in the mail which U.S. Senators receive almost daily charging them with communism or treason because they voted for the foreign aid bill or for the nuclear test ban treaty.

If I may, I should like to read a section of a letter which I recently received from a person called John Haller of Greenville, Pa., who writes on stationery carrying the letterhead, "In Defense of the Constitution." The letter is not atypical. It reads, in part, as follows:

"Just heard on the news that you are defending the wheat sale to Russia and are for giving them credit at the American taxpayers' expense.

"For some time now I have been checking your record and find that you would make a better Communist than you make an American. Any proposals that would protect America or our free-enterprise system are opposed by you and any proposals that would help our enemies are given your whole hearted support. Your famous memorandum is a disgrace and you are a traitor to the Constitution."

This malice and hatred which have become a part of our politics cannot be dismissed as the normal excesses of a basically healthy society. They have become far too common. They are beyond the pale of normal political controversy in which honest men challenge each other's judgment and opinions but not each other's motives and integrity. The excesses of the extremists in our country have created an intolerable situation in which we must all guard our words and the expression of an unorthodox point of view is an extraordinary act of courage.

It was in this prevailing atmosphere of suspicion and hate that the murder of the President was spawned, whatever its immediate causes may have been. In an atmosphere in which dissent can be regarded as treason, in which violence is glorified and romanticized, in which direct action is widely preferred to judicial action as a means of redressing grievances, assassination is not really a radical departure from acceptable behavior. As Chief Justice Warren said in his eulogy of President Kennedy: "What moved some misguided wretch to do this horrible deed may never be known to us, but we do know that such acts are commonly stimulated by the forces of hatred and malevolence, such as today are eating their way into the bloodstream of American life."

What is to be done? What must we do to overcome hatred and bigotry in our national life?

For a start, we can call forth the basic decency of America in the wake of the tragedy which has befallen us. Again, in the words of the Chief Justice:

"If we really love this country; if we truly love justice and mercy; if we fervently want to make this Nation better for those who are to follow us, we can at least abjure the hatred that consumes people, the false accusations that divide us and the bitterness that begets violence.

"Is it too much to hope that the martyrdom of our beloved President might even soften the hearts of those who would themselves recoil from assassination, but who do not shrink from spreading the venom which kindles thoughts of it in others?"

It is to be hoped, profoundly to be hoped, that there will be some redemption for the death of our President. That redemption could issue from a national revulsion against extremism and violence, from a calling forth of the basic decency and humanity of America to heal the wounds of divisiveness and hate. We will, and should, continue to have controversy and debate in our public life. But we can reshape the character of our controversies and conduct them as the honest differences of honest men in quest of a consensus. We can come to recognize that those who disagree with us are not necessarily attacking us but only our opinions and ideas. Above all, we must maintain the element of doubt as to our own convictions, recognizing that is was not given to any man to perceive ultimate truth and that, however unlikely it may seem, there may in fact be truth or merit in the views of those who disagree with us.

On another level, we must do more than we are now doing in the way of organized public effort to explore the depths of human motivation. We must learn more than we now know about the pathological roots and the therapeutic treatment of violence and unreasoning passion in human behavior. "Passions," writes Eric Hoffer, "usually have their roots in that which is blemished, crippled, incomplete, and insecure within us. The passionate attitude is less a response to stimuli from without than an emanation of an inner dissatisfaction." [1] We must seek the means, in our homes and in our schools and in community programs of mental health, of overcoming that which is "crippled, incomplete, and insecure within us" and of bringing meaning, fulfillment, and dignity into the lives of all Americans.

Furthermore, if we are to overcome violence and bigotry in our national life, we must alter some of the basic assumptions of American life and politics. We must recognize that the secular puritanism which we have practiced, with its principles of absolute good, absolute evil, and intolerance of dissent, has been an obstacle to the practice of democracy at home and the conduct of an effective foreign policy. We must recognize that the romanticized cult of the frontier, with its glorification of violence and of unrestrained individualism, is a childish and dangerous anachronism in a nation which carries the responsibility of the leadership of the free world in the nuclear age.

Finally, we must revive and strengthen the central core of our national heritage, which is the legacy of liberty, tolerance, and modernization that came to us from the ancient world through a thousand years of English history and three centuries of democratic evolution in North America. It is this historic legacy which is the best and the strongest of our endowments. It is our proper task to strengthen and cultivate it in the years ahead. If we do so, patiently and faithfully, we may arrive before too long at a time when the voices of hate will no longer be heard in our land and the death of our President will be redeemed.

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[1] "The Passionate State of Mind," p. 1.

ADJOURNMENT TO MONDAY, AT NOON

Mr. HUMPHREY. Mr. President, if there is no further business to come before the Senate at this time, I move, pursuant to the order previously entered, that the Senate adjourn until 12 o'clock noon, on Monday.

The motion was agreed to; and (at 5 o'clock p.m.) the Senate adjourned, under the order previously entered, until Monday, December 9, 1963, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 6 (legislative day of December 5), 1963:

ATOMIC ENERGY COMMISSION

William Jack Howard, of California, to be Chairman of the Military Liaison Committee to the Atomic Energy Commission.

U.S. ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as indicated:

To be lieutenant general

Maj. Gen. Alva Revista Fitch, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. James Francis Collins [redacted], Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as indicated:

Lt. Gen. Hugh Pate Harris [redacted], Army of the United States (major general, U.S. Army).

U.S. AIR FORCE

The following-named officers to be assigned to positions of importance and responsibility designated by the President, in the grade indicated, under the provisions of section 8066, title 10, of the United States Code:

To be lieutenant generals

Maj. Gen. Cecil M. Childre [redacted] Regular Air Force.

Maj. Gen. Benjamin J. Webster [redacted] Regular Air Force.

HOUSE OF REPRESENTATIVES

FRIDAY, DECEMBER 6, 1963

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Galatians 6: 10: *As we have therefore opportunity, let us do good unto all men.*

O Thou spirit of the living God, grant that a longing for obedience to Thy divine will may be woven into the very texture and fabric of our human nature.

May we guard ourselves against the temptations and dangers which threaten to undermine our loyalty to those moral ideals and principles which Thou hast ordained.

Deliver us from selfishness and self-seeking and may we daily bear testimony by doing good unto all the members of the human family that we are seeking to bring unto mankind the spirit of brotherhood.

Show us how we may enlarge the areas of fellowship and cooperation among the nations of the earth, with none seeking its own advantage and welfare.

Hear us in the name of our blessed Lord, who came to show us the way to the more abundant life. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. McGown, one of its clerks, announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 927. An act to amend title 12 of the Merchant Marine Act, 1936, in order to remove certain limitations with respect to war risk insurance issued under the provisions of such title;

S.J. Res. 113. Joint resolution to authorize the President to issue annually a proclamation designating the first week in March of each year as "Save Your Vision Week"; and

S.J. Res. 128. Joint resolution providing for the establishment of an annual National Farmers Week.

THE LATE SENATOR HERBERT H. LEHMAN

Mr. RYAN of New York. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include pertinent editorials.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RYAN of New York. Mr. Speaker, I rise with profound sorrow and great grief to inform the House of the death yesterday at the age of 85 of Herbert H. Lehman, a great American.

Today at this hour President Johnson was to present to him the Presidential Freedom Medal awarded to him by President Kennedy. The citation accompanying that medal reads:

Citizen and statesman, he has used wisdom and compassion as the tools of the Government and has made politics the highest form of public service.

Governor Lehman had one of the most remarkable and distinguished records of public service in the history of our country, including a political career spanning the period from Alfred E. Smith to John F. Kennedy. Time and again the voters of New York elected him to high office—twice as Lieutenant Governor, four times as Governor, and twice as U.S. Senator. Few men have been held in such esteem and affection by the people. I can think of no one more deserving.

Governor Lehman was a compassionate and humane Governor. The 10 years of his administrations are unexcelled in the annals of New York State.

Senator Lehman will be remembered as the voice of liberalism in the Senate during the hysteria of the 1950's. A courageous fighter for civil rights, civil liberties, and a fair and just immigration policy, he was rightly known as the conscience of the Senate.

His retirement from the Senate in 1956 did not mean rest from political combat. Rather his deep concern for the welfare of New York motivated him at the age of 80 to lead another cause, the cause of political decency and reform within the Democratic Party. He fought fiercely against the boss system, inspiring thousands of amateurs to become active in grassroots politics.

Mr. Speaker, I was privileged to work closely with Governor Lehman during the past 5 years in our fight for political reform. I knew him as a man of deep conviction—an idealist and humanitarian who believed in the essential worth and dignity of every individual.

To know him was to love him. I will always cherish the memory of the hours I spent with him, talking with him in his study about issues close to his heart or campaigning with him on the street corners of New York.

Only last weekend he described to me his deep feeling of sorrow at the tragic loss of President Kennedy. As usual, he was looking forward, concerned about his country but confident in the ultimate triumph of reason and tolerance.

Governor Lehman will serve always as a guiding spirit in the everlasting fight against bigotry and tyranny.

Mr. Speaker, throughout his career Governor Lehman relied completely upon his beloved and devoted wife, Edith. She was his constant inspiration. In this hour of her grief, I extend my deepest sympathy to Mrs. Lehman and their children.

Mr. Speaker, I include at this point in the RECORD several editorials about Herbert H. Lehman.

The New York Times editorial of December 6:

HERBERT H. LEHMAN

A second riband of mourning now hangs on the American flag. For the death of Herbert H. Lehman closes the active career of an indomitable national and international servant. As Governor of New York, U.S. Senator, and Director General of the United Nations Relief and Rehabilitation Administration, his life and activities soared in example and significance far beyond the borders of this, his native city.

He lived a private and public life that moved in a straight and true line. In the richest sense of the words, he was a liberal and humanitarian. Against the enemies of the Republic, he saw service in the U.S. Army in the First World War and resigned from the Governorship in the Second World War to direct foreign relief operations for the State Department. Wherever human distress existed, all over the globe, there could be found Herbert Lehman, saving lives as a representative of the best instincts of the United States and the United Nations.