savings and loan associations to build 10,000 homes and we still have the $10 million dollars coming back to us. How could we have used it, or invested it to better advantage?

The day before yesterday evening at the delightful reception that the Savings and Loan League gave, I met Mr. Wende, of Bolivia, and Mr. Hoben, the AID housing representative of my country in Bolivia. I said: "Have you had any assistance, Mr. Wende, from the United States?" He said: "No." I turned to Mr. Hoben and said: "Why hasn't Mr. Wende, since he has the only savings and loan association in Bolivia, a country which has some grave problems in housing, had assistance from our Government?" He said: "When we got through providing funds to try to rehabilitate the mining industry and to provide needed transportation facilities we didn't have any money left for Mr. Wende's savings and loan association."

Insofar as I may influence the matter and when I inform my colleagues of some of these things I hope they will share my opinion, and shall try to provide further funds. No more do we want the savings and loan association or industry to be left out of our assistance because that is the best way in my opinion that we can help your economy and strengthen your democracy through housing construction and homeownership.

Now, Mr. Chairman, I have indulged your kindness by speaking longer than I should have and for that I ask your forgiveness, but just let me close with this. Back in the 1300's, it seemed very dark to the people of Western Europe about maintaining their trade with the east because the Turks had taken Constantinople and barred the land route of Western Europe to the Middle and to the Far East. And so the nations and romantic explorers turned their thoughts to the wide ocean hoping that by sailing west they might find the water route to the riches and the resumption of trade, now the East. They didn't find a short way to the East but they found the Americas and, significantly, it may have been well for the unity of our hemisphere that the first landings occurred in the Central American area.

Great danger confronts us; our very survival is at stake; but danger creates opportunity as did the danger in those days. I am sure that as citizens who love freedom and liberty all through this hemisphere, we are conscious that we bear the banner of humanity and of godliness and human dignity in the world today to an extraordinary degree. We shall stand together not only for peace and for freedom but for the progress of all of our people and people everywhere. So, Mr. Chairman, I say: "Muchas gracias; hasta luego."

SENATE

WEDNESDAY, JUNE 24, 1964

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

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

O God, in whose strong hands are the threads of every man's life, and who under all the wild commotion of days like these dost still control the evil forces which seem for the moment to defeat Thy purpose and hinder Thy Kingdom: Into Thy hands we would commit our lives, with all their powers and all their desires.

We come with heavy burdens on our minds and hearts for our Nation and for the world. We come with deep anxiety concerning the future our children will inherit from our hands. In a world so uncertain about so many things, we are sure of no light but Thine, no refuge but in Thee. Through all the mystery of life, Thy strong arm alone can lead us to its mastery. With Thy benediction, may we face the toil of this day with honest dealing and clear thinking, with hatred of all hypocrisy and sham, and with integrity worthy of the trust the Nation has committed to our hands.

We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, June 23, 1964, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Santos Buxo, Jr., of Hato Rey, P.R., to be U.S. marshal for the district of Puerto Rico, which was referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, returned to the Senate, in compliance with its request, the bill (H.R. 10456) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and administrative operations, and for other purposes.

The message announced that the House had passed a bill (H.R. 1835) relating to applications for writs of habeas corpus by persons in custody pursuant to the judgment of a State court, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

H.R. 221. An act to amend chapter 35 of title 38, United States Code, to provide educational assistance to the children of veterans who are permanently and totally disabled from an injury or disease arising out of active military, naval, or air service during a period of war or the induction period;

H.R. 6041. An act to amend the prevailing wage section of the Davis-Bacon Act, as amended; and related sections of the Federal Airport Act, as amended; and the National Housing Act, as amended;

H.R. 9311. An act to continue for 2 years the existing suspensions of duty on certain alumina and bauxite; and

H.R. 9740. An act to establish the Roosevelt Campobello International Park, and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 1835) relating to applications for writs of habeas corpus by persons in custody pursuant to the judgment of a State court was read twice by its title and referred to the Committee on the Judiciary.

LIMITATION OF DEBATE DURING MORNING HOUR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements during the morning hour be limited to 3 minutes.

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

EXECUTIVE COMMUNICATIONS, ETC.

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

PROPOSED AMENDMENTS TO THE BUDGET, 1965, FOR DEPARTMENT OF AGRICULTURE (S. Doc. No. 82)

A communication from the President of the United States, transmitting amendments to the request for appropriations transmitted in the budget for 1965, for the Department of Agriculture (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

PROPOSED AMENDMENT TO THE BUDGET, 1965, FOR DEPARTMENT OF AGRICULTURE (S. Doc. No. 83)

A communication from the President of the United States, transmitting an amendment to the request for appropriations transmitted in the budget for 1965, in the amount of $2,250,000, and a proposed supplemental appropriation for 1964, in the amount of $10 million, both for the Department of Agriculture (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

PROPOSED AMENDMENT TO THE BUDGET, 1965, FOR VETERANS' ADMINISTRATION (S. Doc. No. 84)

A communication from the President of the United States, transmitting an amendment to the budget for the fiscal year 1965, involving a transfer of funds between accounts of the Veterans' Administration (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

PETITION

The ACTING PRESIDENT pro tempore laid before the Senate the petition of Restituto Marla, of Leon, Iloilo, Philippines, relating to her claim for a redress of grievances, which was referred to the Committee on the Judiciary.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services, with an amendment:

H.R. 10300. An act to authorize certain construction at military installations, and for other purposes (Rept. No. 1102).

By Mr. HAYDEN, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 5514. An act to direct the Secretary of the Interior to sell certain public lands in the State of Arizona (Rept. No. 1104).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2082. A bill to authorize the Secretary of the Interior to accept a transfer of certain lands within Everglades National Park, Dade County, Fla., for administration as a part of said park, and for other purposes (Rept. No. 1103).

EXECUTIVE REPORT OF A COMMITTEE

As in executive session,

The following favorable report of a nomination was submitted:

By Mr. ROBERTSON, from the Committee on Banking and Currency:

Hamer H. Budge, of Idaho, to be a member of the Securities and Exchange Commission.

BILLS INTRODUCED

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

By Mr. HUMPHREY:

S. 2939. A bill for the relief of Charlott Schulz; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 2940. A bill for the relief of Dr. Paulita T. Sikat; to the Committee on the Judiciary.

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

By Mr. JORDAN of North Carolina:

S. 2941. A bill for the relief of Pola Bodenstein; to the Committee on the Judiciary.

By Mr. BEALL:

S. 2942. A bill for the relief of John Acerbi; to the Committee on the Judiciary.

DR. PAULITA SIKAT

Mr. McGOVERN. Mr. President, I introduce, for appropriate reference, a private bill for the relief of Dr. Paulita T. Sikat, who is presently in the United States under the Mutual Education and Cultural Exchange Act of 1961.

Dr. Sikat is a citizen of the Philippine Islands and has pursued medical studies in the United States since June of 1958. She has exhausted her administrative requests with the Waiver Review Board of the Department of Health, Education, and Welfare.

I am advised that she presently is associated with the obstetric and gynecology division of the Sacred Heart Hospital in Yankton and is also a member of the faculty of the Medical School of the University of South Dakota. She is also engaged in professional research in the clinical testing of a new drug, metromidozole, and is the only gynecologist for the Yankton State Hospital, a 2,400-bed mental institution. She is also responsible for the floor care of such patients admitted to the Sacred Heart Hospital in Yankton, a 200-bed general hospital.

I am further informed that efforts have been made by these hospitals to replace Dr. Sikat with a comparable skilled and experienced doctor and that salary offers have ranged from $900 to $1,200 a month. To date, these facilities have not been successful in obtaining a replacement for Dr. Sikat.

For these reasons, I am hopeful that favorable consideration will be given this proposed legislation, lawfully admitting her to the United States for permanent residence as of the date of the enactment of this act and upon payment of the required visa fee.

The PRESIDING OFFICER (Mr. INOUYE in the chair). The bill will be received and appropriately referred.

The bill (S. 2940) for the relief of Dr. Paulita T. Sikat, introduced by Mr. McGOVERN, was received, read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED (AMENDMENT NO. 1074)

Mr. LAUSCHE. Mr. President, I submit an amendment to H.R. 11380, known as the foreign assistance bill. I ask that the amendment be printed, and that copies of the amendment be sent to the Foreign Relations Committee. The amendment is sponsored by myself and by the senior Senator from South Dakota [Mr. MUNDT].

The PRESIDING OFFICER. The amendment will be received, printed, and appropriately referred.

The amendment was referred to the Committee on Foreign Relations.

ADJUSTMENT OF RATES OF BASIC COMPENSATION OF CERTAIN OFFICERS AND EMPLOYEES—AMENDMENT (AMENDMENT NO. 1075)

Mr. KEATING submitted an amendment, intended to be proposed by him, to the bill (H.R. 11049) to adjust the rates of basic compensation of certain officers and employees in the Federal Government, and for other purposes, which was referred to the Committee on Post Office and Civil Service and ordered to be printed.

NOTICE OF HEARINGS ON NOMINATIONS OF WILSON COWEN AND PHILIP NICHOLS, JR.

Mr. JOHNSTON. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that public hearings have been scheduled for Wednesday, July 1, 1964, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Wilson Cowen, of Maryland, to be chief judge of the U.S. Court of Claims, vice Marvin Jones.

Philip Nichols, Jr., of Massachusetts, to be judge of the U.S. Customs Court.

At the indicated time and place persons interested in the hearings may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi [Mr. EASTLAND], chairman; the Senator from South Carolina [Mr. JOHNSTON], and the Senator from Nebraska [Mr. HRUSKA].

NOTICE OF HEARINGS ON SENATE BILL 1663

Mr. LONG of Missouri. Mr. President, as chairman of the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, I wish to announce that hearings will be held before the subcommittee on S. 1663. It should be noted that this bill has already been subjected to comprehensive study and consideration by the subcommittee and its staff.

After reviewing the comments of many Federal agencies, and after a 3-day series of meetings with leaders of the American Bar Association, the subcommittee had printed a revised version of S. 1663, dated April 20, 1964.

Although the subcommittee will welcome any testimony on the original and unrevised bill, it is hoped that most of the testimony will be focused on the revised print of the subcommittee.

This bill provides extensive amendments to the procedural statute applicable to the proceedings before all administrative agencies. It also includes certain amendments that were introduced in the form of separate bills, S. 1466 and S. 1666. The former provides for the right of licensed attorneys to practice before administrative departments and agencies without meeting admission requirements of the departments and agencies. The latter bill, S. 1666, is the freedom of information bill which sets new and meaningful requirements governing the citizen's right to public information controlled by the administrative departments and agencies.

The hearings will be held at 10 a.m. on Tuesday, Wednesday, and Thursday, July 21, 22, and 23, 1964, in Room 3110 of the New Senate Office Building.

All persons desiring to be heard are requested to notify the office of the Senate Subcommittee on Administrative Practice and Procedure by telephone—225–5617—or by mail to Room 3216, New Senate Office Building, Washington, D.C.

It is requested that prospective witnesses, in compliance with subcommittee practice, file four copies of their statements with the subcommittee at least 48 hours before their scheduled appearance. At the time of their appearance, 50 additional copies should be provided for use of the members of the subcommittee, the press, public, and other agencies.

MONTANA WOMAN WORKING FOR U.S. GOVERNMENT FOR NOTHING GAINS RECOGNITION

Mr. MANSFIELD. Mr. President, I invite the attention of the Senate to the recognition given to Mrs. Marcus Staudu-

har, who lives 12 miles north of Dillon, Mont., in the lower Birch Creek area.

She is a lady who has been recognized and honored during the past week for a unique achievement; namely, serving the Government of the United States without pay.

I ask unanimous consent that the news story published in the Montana Standard for June 14, be printed in the RECORD.

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

WOMAN WHO WORKS FOR UNITED STATES FOR NOTHING GAINS RECOGNITION

DILLON.—A Dillon woman this week was honored for a rare and unique achievement—service without cost to the Government.

Mrs. Marcus (Ann) Stauduhar, who resides 12 miles north of Dillon in the lower Birch Creek area, has been awarded a special Weather Bureau emblem symbolic of 15 years' service as a nonpaid observer for the U.S. Weather Bureau from her vantage point near the old Apex Station on the Union Pacific Railroad.

Recognition of her noteworthy efforts was disclosed in a letter to the Tribune-Examiner from R. A. Dightman, who commented that "you might like to recognize her contribution of these climate records—for which she has received no remuneration of any kind."

Mrs. Stauduhar's notification of the award follows:

"In June 1964, you completed 15 years as a Cooperative Weather Observer. During that time, your climatological reports have been of great value to the Weather Bureau and the agencies working with them. We are grateful for the opportunity of associating ourselves with you in this worthwhile endeavor.

"In recognition of this association, we are forwarding under separate cover, a length of service emblem in acknowledgment of your long period of service.

"Joining us in congratulating you on this achievement are the Weather Bureau Office in Washington, D.C., the National Weather Records Center in Asheville, N.C., R. A. Dightman, Montana State climatologist, and Edward L. Stensland, field representative."

The letter is signed by R. B. Durrant, chief, regional substation management unit, Salt Lake City, Utah.

ICC AND CONTROL OF FREIGHT CAR RENTAL CHARGES

Mr. HRUSKA. Mr. President, recently the Traffic World, one of the finest specialized magazines which is exclusively reporting in the field of transportation published a thought-provoking editorial entitled "ICC and Control of Freight Car Rental Charges."

Of course, legislation, like almost any other subject, is capable of differing interpretations. The very capable editor of Traffic World, Mr. Joseph C. Scheleen, has presented his views which took the form of an editorial published in the issue of June 13, 1964, of Traffic World. Mr. Scheleen is a most respected man in his field and his views on transportation are entitled to high consideration.

Another view on the incentive per diem bill, S. 1063, is espoused by Eldon Martin, a vice president and general counsel of the Burlington Lines which operates to the west and south of Chicago, Ill. Mr. Martin is a legal expert on the per diem question and one of the Nation's leading transportation lawyers. On June 19, 1964, he addressed a letter to Mr. Scheleen in which Mr. Martin seeks to set the record straight concerning the incentive feature of S. 1063 and the legal question presented in this situation.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. Scheleen's editorial and Mr. Martin's letter. Each communication speaks for a point of view which is entitled to be considered in connection with the bill, S. 1063, and the Senate Commerce Committee's report and hearings.

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

[From Traffic World, June 13, 1964]

ICC AND CONTROL OF FREIGHT CAR RENTAL CHARGES

Underway now in Congress is a new push for enactment of an amended version of a bill that would empower the Interstate Commerce Commission, in exercise of its power to fix the compensation to be paid by railroads for the use of freight cars owned by other railroads, to give consideration to matters by which, according to a Federal court decision handed down in 1947, it cannot now allow its determinations of such per diem charges to be influenced.

A news article in this issue conveys the information that the Senate Commerce Committee has voted to report favorably to the Senate S. 1063—a bill introduced (pursuant to an ICC request) by the committee chairman, Senator MAGNUSON, Democrat, of Washington, and 34 other Senators—after amending it so as to make it operative only for 2 years after the effective date of the first orders issued by the ICC under the authority that would be granted it by the bill. According to its title, S. 1063 would amend section 1(14)(a) of the Interstate Commerce Act so as to "insure the adequacy of the national railroad freight car supply." On the question whether enactment of S. 1063 will provide such "insurance," opinions in the railroad industry and among other transportation interests are sharply divided.

Whenever there's a freight car shortage or a threat of such a shortage, particularly one affecting movement of grain, there's a revival of agitation for enactment of legislation by Congress to establish freight-car rental rates at levels that would penalize railroads that don't own as many freight cars as the Commission thinks they should own. The frequency of car shortages, particularly shortages of boxcars, has been such that each year for the last 9 years the ICC has included in its annual report to Congress a recommendation that it be empowered to prescribe "penalty" or "incentive" per diem rates. Under the aforementioned court decision, all it can do now is to prescribe compensation, for the use by railroads of cars owned by other roads, that's "reasonable"—which means that the prescribed "compensation" for the car owners can't include any element of a punitive or incentive nature.

Every request by the ICC for legislation to broaden its authority in prescription of per diem charges may be viewed by critics of the agency as a power-grabbing attempt. However, if we were in the Commission's shoes and were having mud pies thrown at us by shippers whenever a car shortage occurred, we would want to be able to tell the complaining shippers that we had tried and would continue to try to persuade Congress to provide needed legislative relief.

This fight between groups of railroads and between groups of shippers over proposed enlargement of ICC authority over freight-car rental payments has flared up sporadically in a long period of years. Within the railroad industry, the adversary lineups haven't changed much. As explained in a Senate hearing nearly a year ago by Allen J. Greenough, president of the Pennsylvania Railroad, the feud is between the "haves" (the roads that own large freight car fleets), on the one hand, and, on the other, the "have-nots." The arguments for and against bills such as S. 1063 are in the main the same now as they were a dozen or more years ago, when legislation of that ilk was being considered in congressional committee hearings.

Then, and for years afterward, the sympathies of many of us who heard the testimony in those hearings were on the side of the "haves." We thought that the daily rental rate for freight cars of all ages and types ($1.75 per car per day from November 1, 1949, to May 1, 1952, when it was raised to $2 per car per day) was too low to fairly compensate the owners for use of the cars. Even after the rental rate later was raised to $2.88 per car per day we felt that roads that owned new cars each of which cost thousands of dollars more than some of the old, creaky, wooden "crates" that were earning the same per diem were getting a sour deal.

Today the freight-car-rental situation has undergone great changes, and it seems likely to undergo additional changes in the direction of improvement, with or without passage of legislation such as S. 1063.

Since January 1, 1964, the per diem rates in effect on the railroads (as a result of a majority vote of those carriers, based on car ownership) have been in six brackets, ranging from $2.16 a day for old cars costing $1,000 or less to $7.74 a day for the newer units, costing $20,000 or more each. The ICC instituted a proceeding last December (T.W., Dec. 28, 1963, p. 51) docketed as Ex parte No. 241, Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution, Rules and Practices. In this inquiry it is gathering statistics from the railroads showing, among other things, the number of cars owned January 1, 1964, the number of cars installed and retired in 1963, the estimated car installations and retirements in 1964, and the estimated ownership of cars as of January 1, 1965.

It could be noted here that in testimony before the Senate Commerce Committee a year ago in support of S. 1063, the ICC Chairman said that "if this legislation is enacted, the Commission's first step would be to determine the extent to which the railroads are deficient in car ownership * * *." Later, D. L. Manion, president of the American Short Line Association, one of the witnesses opposing S. 1063, referred to the ICC Chairman's proposal for the making of a car-supply study and commented that "it appears to me that the Commission now has authority to make such a study."

From the Association of American Railroads we have learned that the AAR board of directors has authorized the making of a study, by "outside sources," of the per diem situation, with a view to determining whether changes should be made in the per diem rates that are now in effect.

Senators and House Members in Congress from the grain-producing States apparently believe that a system of "penalty" or "incentive" per diem rates prescribed by the ICC will help to prevent boxcar shortages or will minimize the severity of such shortages if they occur. However, taking into consideration the fact that much of the inequity in the freight-car-rental picture has been removed since the present "brackets" of per diem charges were established, we are not convinced that substantial growth of the serviceable freight car fleet will result from enactment of S. 1063 or of some similar bill.

The roads that have the resources are spending impressive amounts now for new, improved freight-carrying equipment. Roads that should own more cars but lack the wherewithal are not likely to be induced by "penalty" or "incentive" per diem charges to make any additions to their freight car fleets.

BURLINGTON LINES,
Chicago, Ill., June 19, 1964.

Mr. JOSEPH C. SCHELEEN,
Editor, Traffic World,
Washington Building,
Washington, D.C.

DEAR MR. SCHELEEN: Your editorial of June 13, 1964, concerning freight car rentals suggests that you may not have done your homework. False premises and assumptions led you to conclusions inconsistent with your reputation for checking your facts, and premises, as a basis for editorial comment.

You recognize, apparently, the fact that car shortages, particularly of boxcars, have become much more frequent and more severe in recent years. Despite the spending of "impressive amounts" for new equipment, the national fleet is at its lowest level since 1900, and, since 1958, the trend has been, and still is, steadily downward.

I trust you will recognize, also, the economic principle that high rentals encourage, and low rentals discourage, the acquisition or construction of equipment (or other property) which can be taken and used by nonowners. Without a diagram of the relation between this truism and the dwindling freight car fleet, I come to your comments about S. 1063.

Have you read the bill? In essence, it says simply that when the ICC is called upon to prescribe per diem charges, it shall consider "the adequacy of the national freight car supply" and prescribe such charges as in its judgment will encourage the acquisition and maintenance of an adequate fleet. These are basic factors which the Commission necessarily must consider if it is to protect the public interest, in addition to the interests of private litigants. Except for the *Palmer* case, 75 F. Supp. 63, which I will discuss later, this would be too clear for argument. In fact, many, if not most seasoned railroad lawyers will tell you that when Congress, in 1920, gave the ICC plenary power to prescribe per diem charges, it undoubtedly thought the Commission should and would consider, in such cases, the public interest in an adequate national car fleet. Under this concept, S. 1063 involves no change of substantive law, but is, rather, a clarification of the congressional intent first expressed in 1920.

Now, let's talk about the Palmer case. You say in effect that, according to that decision, the Commission "cannot now allow its determination of such per diem charges to be influenced" by "the adequacy of the national freight car supply." This is one of the specific "matters" in S. 1063 which it would tell the Commission to "give consideration to." The Palmer case does not forbid consideration of this matter—but, if there is doubt, this is a powerful argument for enactment of S. 1063.

You may also say that, under the Palmer case, "compensation for the car owners can't include any element of a punitive or incentive nature." The Palmer case did condemn the specific "punitive" or "penalty" per diem charges involved in that litigation, which were almost twice as high as the normal charges, and were prescribed as a temporary, emergency effort to expedite the return of freight cars to their owners. But the Palmer case did not, as you imply, condemn per diem charges which provide an "incentive" for car ownership, and encourage investment in such equipment as a method of protecting the permanent public interest in an adequate freight car fleet. It did not—and could not lawfully—condemn per diem charges which are compensatory in a fully remunerative sense, i.e., charges which include an "increment to attract capital," an allowance for inherent ownership risks, a modest profit in addition to "return on investment," obsolescence factors, reimbursement for income taxes paid on rentals collected by car owners (which, of course, are deductible by car users), and other factors—beyond bare bones cost—which make any investment attractive. S. 1063 contemplates no penalty of the type condemned in the Palmer case. It does contemplate incentive of the type outlined above—and why not if an adequate freight car fleet is in the public interest?

Perhaps you confused "penalty" and "incentive" because bills of both types were introduced in earlier sessions of the Congress. But no penalty bills are pending in the present Congress and S. 1063 definitely is not a penalty bill.

You say that "within the railroad industry, the adversary lineups haven't changed much." The facts are that opponents of S. 1063 and its identical predecessors have been dwindling like the car supply. Several former opponents have withdrawn their opposition and at least one important southern road has recently joined the supporting group. Many important shippers support the bill and few, if any, oppose it.

Just a word now about the multilevel scale which became effective January 1, 1964. This was a change in the direction of improvement as you suggest, and constitutes partial recognition of the principles which support enactment of S. 1063. But that scale was opposed by several railroads and is under attack in cases now pending before the ICC. The Commission, in that litigation, must prescribe per diem charges for the future. Surely you will agree that it should prescribe such charges as will "provide just and reasonable compensation to freight car owners, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense." This quotation from the bill is the essence of S. 1063.

Very truly yours,

ELDON MARTIN.

INVASION OF MISSISSIPPI

Mr. STENNIS. Mr. President, since the Mississippi invasion was first announced many weeks ago, I have repeatedly and consistently called on those planning the project to abandon it. I have pointed out repeatedly that their drive could only succeed if they could provoke incidents, strife, and violence to get the Federal Government to intervene—that this was the real purpose of those organizations sponsoring this summer project. It was also clear, as I pointed out, that Mississippi had been selected by them as the whipping boy.

As I have pointed out on the floor of the Senate on numerous occasions, the invasion of Mississippi would be an utter failure unless those participating were successful in stirring up strife and violence. Otherwise, their mission would be a failure. The real purpose of those in charge of this drive on my State is to provoke incidents and violence.

I am also deeply concerned about the safety and welfare of the people of Mississippi.

I pray that the missing men will be found safe and sound.

So that the disappearance and the possibility of violence, which I pray has not been the case, of the missing men now in the headlines, is exactly in keeping with the real purpose which the leaders of this movement must accomplish if their mission is to succeed under their own formula. The more incidents they create, the more violence will probably flow. Of course, the more violence they have, the more publicity they will get and the more successful is their mission according to their formula.

The young students and others participating in this invasion are the tools and pawns in the hands of skillful operators. They are being used.

I deplore violence. The people of Mississippi are law-abiding citizens. All of us deplore violence of any kind. I know that the people of Mississippi have shown remarkable patience and restraint while being subjected to the invasion and onslaught of freedom riders, demonstrators, and others traveling thousands of miles for the sole purpose of violating our laws and stirring racial strife and discord.

If violence and bloodshed do erupt as a result of the invasion of my State by these freedom riders, demonstrators, and agitators, the blood will be on the hands of those who planned this drive and who are determined to carry it through regardless of everything else.

I have urged those sponsoring the movement to abandon it. I have called on the President, the Attorney General, the Governors of the States, my fellow Senators, and the parents of the young people involved all to use their influence to keep these young people in their home States, and to stop them from going to Mississippi.

In conferring with Governor Johnson, of Mississippi, by telephone and in sending Mr. Allen Dulles to advise with Governor Johnson and other authorities in their search for the missing persons, the President has shown his concern. I am sure that Governor Johnson appreciates the interest of the President and that he welcomes the assistance of Mr. Dulles. For weeks, Governor Johnson has made clear his deep concern and his determination to do all within his power to preserve law and order within the State of Mississippi.

What is really needed, however, is to get to the root of the trouble. This invasion of Mississippi must be stopped. This is the only way to avoid further incidents, violence, and possible bloodshed.

As one official of my State and as one deeply concerned, I suggest that the President has not yet gotten to the real core of the problem in that he has failed to use the influence of his office and his power of persuasion in stopping this ill-fated movement and crusade.

The President of the United States, with his background and firsthand experience and personal knowledge of the feelings, customs, and traditions of those in the South certainly knows that the continued onslaught of agitators and zealots on the people of the South can only pour salt into an open wound. The

Attorney General should also be aware of this.

I again urge the President and the Attorney General to use his influence and his power of persuasion to stop this invasion immediately.

This is the only effective answer.

I am confident that a firm, positive, and definite statement and recommendation from the President and the Attorney General would stop this invasion in an hour's time.

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

Mr. STENNIS. 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. STENNIS. Mr. President, I am confident that every Member of the Senate would oppose with all the strength he could muster a parade of invaders into his own State when their announced purpose was to stir up trouble and violate the laws of his State.

Further, I do not believe there is a single Member of the Senate who believes that such a "parade" or "invasion" into any State is the way to improve troubled conditions. On the other hand, I believe that virtually every Member of the Senate knows in his heart that this invasion can only be highly provocative and make the situation even worse.

Mr. President, again I urge that the real need to be considered to get at the core of this problem is to stop this invasion, which can be done, I believe, by the use of persuasion.

Mr. JAVITS. Mr. President, I should like to be recognized at this time for 3 minutes because I could not disagree more with the Senator from Mississippi, and I should like to utilize that time now.

THE FEDERAL RESPONSIBILITY IN MISSISSIPPI

Mr. JAVITS. Mr. President, the tragedy which may have happened to the young boys in Mississippi can neither be ignored nor begged.

The right of a U.S. citizen to travel anywhere in this country, and to help citizens register to vote in that place, if he wishes to, cannot be denied. The residents of Mississippi can travel constitutionally and legally into and around New York. And the residents of New York can travel constitutionally and legally into and around Mississippi. That is why we are a nation, and not a collection of States.

The Federal authority is being directly challenged. The United States cannot tolerate interposition, secession, or a nullification of the Constitution.

The President faces that issue very directly in Mississippi, and if we do not face up to it, we shall have—as we have found to be true in the world—not less trouble, but more trouble, unless we are willing to say right now that the civil rights bill which we have just passed is not going to be complied with in Mississippi.

It is a fundamental proposition that the privileges and immunities of every citizen of the United States—including the right to travel freely throughout every State of the Union, and the right to assist others in the attaining of their constitutional rights, including the right to vote—extends to every State of the United States, notwithstanding the opposition of local officialdom or the local population.

As a necessary corollary to this proposition, it is the responsibility of the Government of the United States to safeguard the enjoyment of these privileges and immunities where they are jeopardized or denied. It is presently—even before final enactment of the pending civil rights bill—a Federal crime to conspire to deprive any person of his constitutional rights. And the 1957 and the 1960 Civil Rights Acts authorize the Attorney General to bring suit to enjoin any intimidation of those who seek to exercise the right to vote.

Under these statutes, the Department of Justice has the power to provide Federal presence, through use of U.S. marshals and agents of the Federal Bureau of Investigation, to attempt to avoid, in advance, the violence and intimidation which seemingly has long plagued activities in Mississippi, as they concern civil rights advocates. This tragic situation has now once again been brought to the Nation's attention by the disappearance of three young members of the Council of Federated Organizations who were on a voter registration drive in Mississippi.

The fullest use of these powers to protect fundamental rights is the issue before the people of the United States today. This was the issue long before the estimated 900 young college people decided to go to Mississippi on this voter registration drive; it is the issue now, and it will remain the issue.

We cannot ignore this situation in any way. The law of the United States must be enforced. George Washington enforced it in the Whisky Rebellion. President Johnson will have to enforce it.

It is a challenge the people of the United States can neither evade nor overlook. It goes directly to the enjoyment of liberty by every American. Our hearts must go out to the parents of these fine young men who are concerned directly. They themselves have recognized the symbolic character of what already has all the most dangerous indications of tragedy. The President of the United States and the Department of Justice are hard at work already as they should be and they are entitled to the support of the Congress and the Nation. They must be supported, and their activities must be implemented with marshals who can be present in Mississippi. The responsibility of the United States cannot be evaded. And it cannot be avoided. It must be faced if we acted in good faith here the other day, after 3 months of debate, in passing the civil rights bill.

However, whatever it takes to guarantee the safety of all these young people must be provided. The presence of U.S. marshals and agents of the FBI in Mississippi, wherever these groups of young college people are in operation, is clearly necessary. In my judgment, there is no similarity between the minimal Federal presence of Federal marshals and agents, as a preventive measure, and an organized Federal police force, which the Nation is naturally reluctant to see established.

The country must resolve to give this safe conduct to its citizens. There is no other way for a sovereign nation. There is no room for interposition, secession or the idea that New Yorkers or the citizens of any other State are foreigners in Mississippi. If this be the confrontation, the Nation must face it unflinchingly and it dare not fail in its responsibility.

COMMITTEE MEETING DURING SESSION OF THE SENATE FOR REMAINDER OF THE WEEK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Appropriations and its subcommittees be authorized to sit during the sessions of the Senate for the remainder of the week.

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

Mr. SALTONSTALL. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield.

Mr. SALTONSTALL. The Senator asked that the Appropriations Committee be authorized to sit during the sessions of the Senate for the remainder of this week?

Mr. MANSFIELD. Yes.

Mr. SALTONSTALL. Would the Senator not make that for the remainder of the session?

Mr. MANSFIELD. I would like to; but I do not think I can go that far.

Mr. SALTONSTALL. Could it be done for the remainder of the month, until July 1?

Mr. MANSFIELD. That can be discussed later.

COMMITTEE MEETING DURING SESSION OF THE SENATE ON MONDAY NEXT

On request of Mr. MANSFIELD, and by unanimous consent, the Committee on Agriculture and Forestry was authorized to meet during the session of the Senate on Monday next.

AUTHORIZATION OF APPROPRIATIONS TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—RECONSIDERATION OF BILL

Mr. MANSFIELD. Mr. President, in line with the promise made yesterday, I ask unanimous consent that the bill (H.R. 10456) the NASA authorization bill—which I stated was to be returned to the Senate—be laid down and reconsidered at the conclusion of morning business, including the third reading.

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

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. DIRKSEN. I ask the distinguished majority leader about the schedule for today, and, if possible, for the remainder of the week.

Mr. MANSFIELD. Mr. President, as the Senate knows, yesterday, notice was given that at the request of several Senators, a request would be made to reconsider H.R. 10456. That bill will be laid down at the conclusion of the morning hour.

Yesterday, the Senate agreed to a unanimous-consent agreement allowing 1 hour for this reconsideration.

When action on that bill is concluded, I do not know of anything else on the calendar which will come up. Unless there are any speeches to be made, the Senate will adjourn shortly thereafter.

Tomorrow, on the basis of information which has just reached the leadership, it is the intention to take up the debt ceiling, the excise tax legislation, and the renegotiation legislation.

I would hope now that the distinguished Senator from Mississippi is present, that he will confirm this statement. Has the military construction authorization bill been reported?

Mr. STENNIS. Mr. President, the military authorization bill has been passed on by the full committee. The report will be filed this afternoon. We were hoping that the leadership could arrange to have it taken up by Friday.

Mr. MANSFIELD. Yes. I had discussed this subject with the Senator.

Mr. STENNIS. We were hoping that it would be over for one day. There was virtual unanimity about the bill, I think, in the full committee.

Mr. MANSFIELD. I have discussed this matter with the minority leader. What the chairman of the subcommittee has just suggested would meet with our approval. We would be happy to take it up on Friday, and, if possible, even tomorrow afternoon.

Mr. STENNIS. I wonder if it would be agreeable to the Senator from Massachusetts to be present tomorrow afternoon.

Mr. SALTONSTALL. I shall be very happy to be present. I told the majority leader that I had hoped the bill could be taken up tomorrow afternoon.

Mr. STENNIS. I hope so, too.

Mr. FULBRIGHT. Mr. President, with regard to the NASA bill, I understand that it is to be taken up immediately after the conclusion of the morning hour.

Mr. MANSFIELD. That is correct.

Mr. FULBRIGHT. Amendments to that authorization are in order, I take it.

Mr. MANSFIELD. Within the 1-hour limitation.

Mr. FULBRIGHT. Just 1 hour; to be divided between whom? Will there be a vote for reconsideration?

Mr. MANSFIELD. The vote has already been had. The motion was made by the Senator from Montana, and the Senate agreed to the motion to reconsider.

Mr. FULBRIGHT. Would an amendment to cut the appropriation be in order?

Mr. MANSFIELD. I would assume so.

Mr. FULBRIGHT. I have one at the desk.

Mr. SYMINGTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. SYMINGTON. Does the amendment to the bill require unanimous consent, inasmuch as there has been a third reading?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that unanimous consent will not be necessary to offer an amendment.

Mr. FULBRIGHT. With regard to H.R. 10456, I wish to state my own position. Last Friday the RECORD showed that the majority leader said that he was going to take up two appropriation bills, followed by the NASA appropriations bill, H.R. 10456. He said in a subsequent part of that statement that they would not necessarily be taken up in that order.

I do not wish to reflect in any way upon the majority leader. But the fact is that a member of my staff informed me that it was anticipated that the bill would be taken up late Monday afternoon, after the Interior authorization bill and the Treasury and Post Office authorization bill, I had material prepared for that time. There was a committee meeting on that day, and other things occurred. The bill was passed before I was aware of it. I know that certain other Members of the body who anticipated some discussion of the bill expected to say a few words about it and possibly offer an amendment.

The RECORD shows very little discussion of the bill. Aside from the insertions, the discussion covers only about three or four pages of the RECORD. The bill, which would authorize $5,300 million, apparently took up only about 30 minutes of the Senate's time, with three or four or perhaps five Senators participating in the discussion.

It seems to me that that is a rather casual way to consider a bill which would authorize the appropriation of $5,300 million. It appears especially casual when the action is compared to the 3 or 4 months that were spent last year in the long debate on a bill such as foreign aid.

Mr. President, last fall I offered an amendment to the NASA authorization bill, and after fairly thorough discussion, 36 Senators voted to cut the authorization for this program, which was then to be given practically the same amount as in the present bill, by $520 million.

At the proper time, when the bill is before the Senate, I intend to call up my amendment, which would undertake to cut by 10 percent the authorization for the manned lunar flight program only, not the overall program, although I would be perfectly willing to support an amendment to cut the total amount.

But in an effort to find some formula that would be agreeable to the Senate, I shall offer my amendment at the appropriate time. The purpose of the amendment is not to stop the program. It is designed merely to change it from a crash program, which I believe is exorbitantly costly and unjustifiably extravagant, to a more rational program that would proceed at a normal pace toward a better understanding of outer space. I shall offer that amendment this afternoon.

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

Mr. FULBRIGHT. I yield if I have time.

Mr. LAUSCHE. I merely wish to associate myself with the remarks of the Senator from Arkansas. The amendment which he intends to offer ought to be adopted. If anything, the amount of the proposed cut ought to be increased. At this stringent time we ought not——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Arkansas may have an additional minute.

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

Mr. LAUSCHE. At this time, when there is a stringency in the supply of money, we should not hasten the effort to place a man on the moon.

Mr. FULBRIGHT. I thank the Senator.

DISAPPEARANCE OF AIDS IN VOTER REGISTRATION DRIVE IN MISSISSIPPI

Mr. KEATING. Mr. President, we all know the Senator from Mississippi to be a man of good will, and so much of his statement has tended to express abhorrence for any acts of violence. Of course we know these remarks come from a sincere heart. However, the whole Nation has been shocked and dismayed by the disappearance of three young people in Mississippi who are there on a legitimate mission to assist in the voter registration drive in that State, and who have a right to be there as long as they do not bring about any violence or are not in breach of the peace. There is no evidence that any of these men were. Two of these missing young people, Michael Schwerner and Andrew Goodman, are New Yorkers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KEATING. Mr. President, I ask unanimous consent that I may have 1 additional minute.

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

Mr. KEATING. They were last seen at 10:30 Sunday night when they were released from jail in Philadelphia, Miss., where they had been held for investigation. Their burned car was found last night, but there is no trace of the missing men.

This matter was first brought to my attention at noon last Monday, and I

have been in constant touch with the Department of Justice ever since. The Civil Rights Division, the Federal Bureau of Investigation, and the U.S. naval base at Meridian have all joined in the search. Monday afternoon, I spoke by telephone to Mr. Schwerner's wife; yesterday, I saw a group of New York college students who will leave for Mississippi this week, and this morning I spoke to a group of New York parents whose children are participating in this project. In light of the disappearance of these men, others are concerned for their own safety.

While it is, of course, impossible for the Federal Government to provide personal bodyguards for these workers, they are nonetheless entitled to have their own constitutional rights as U.S. citizens protected during their efforts to promote voter registration. Their mission in Mississippi is peaceful. They are there to teach and to aid formerly disenfranchised citizens to register and vote. They are accompanied by clergymen.

Yesterday, I contacted the Attorney General asking that U.S. marshals be sent to Mississippi to protect these young people from violence. I do not suggest that a large force be dispatched, or that an army of Federal law enforcement officials would be appropriate. The project, however, is working in only three areas of the State. The presence of half a dozen marshals would give evidence of a Federal concern and Federal determination to protect the right of all citizens to vote.

Young people leaving for Mississippi have already received threats that they will suffer physical harm. I am confident that officials of the State of Mississippi will do all within their power to preserve law and order. This is their responsibility, and I am sure they will take it seriously. And I appeal to the Senators from Mississippi to express their interest in that regard. The Federal presence in the person of U.S. marshals, however, would be reassuring to the young people involved and their parents, and might deter the repetition of what I fear to be the tragic events of this week.

Our hearts are full for the families involved in this case, and we certainly hope that our fears are groundless.

GOVERNMENT REDTAPE IN THE IMPORTATION OF SCIENTIFIC INSTRUMENTS—THE MICROCALORIMETER FOR THE UNIVERSITY OF COLORADO

Mr. DOMINICK. Mr. President, yesterday the distinguished Senator from Montana [Mr. MANSFIELD] was kind enough to call up for consideration a bill (H.R. 4364), which would permit the importation into the United States of certain scientific instruments for research purposes without the need of paying import duties on them. He was kind enough to permit us to add to the bill a microcalorimeter which has been purchased by the University of Colorado from France.

A microcalorimeter is an instrument which is used to measure very minute weight particles of heat radiated over a long period of time. The instrument is not produced domestically at all. After continued research programs it was necessary for the university to purchase the instrument and bring it into this country. I am hopeful that the House will accept the amendments which have been included by the Senate. I appreciate the courtesies which were extended to us.

In the process of acting on the request I was struck somewhat with the complexity of government. The calorimeter is an instrument which is needed in a research program funded by the Bureau of Public Health originally. It is being used in a State-supported university. But in order to waive the import taxes on that particular piece of instrumentation, it was necessary to receive clearances from the Department of Commerce, the Department of Agriculture, the Department of State, the Department of the Treasury, and the Bureau of the Budget—all of which we received. It seems somewhat ironical to me to consider that when we have a research program funded largely by the Government and we get equipment with Government funds for the purpose of improving research, we are then required to obtain clearance from five agencies of Government to obtain the instrument without paying duty on it. A more or less private bill must be passed by both Houses of Congress in order to make the action effective. It seems to me that perhaps general legislation is needed, as has been suggested by several of the departments. Perhaps we should work toward that end.

AUTHORIZATION OF APPROPRIATIONS TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. DOMINICK. Mr. President, I am in support of many of the points that the Senator from Arkansas [Mr. FULBRIGHT] brings up in connection with the NASA authorization bill.

I ask unanimous consent to have printed at this point in the RECORD an article from the Reader's Digest, entitled "How Haste in Space Makes Waste," which I think gives us a very good indication of the necessity to cut back some of the wasteful spending going into the program.

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

HOW HASTE IN SPACE MAKES WASTE

(By Joe Alex Morris)

The U.S. space program has two faces, and—like the moon at which much of it is aimed—one face is familiar to everybody; the other is largely unknown.

The widely publicized face represents great scientific and technological achievement, with potential benefits of vast importance to our future welfare and security. With the successful orbiting of almost 60 scientific and military payloads in 1963 (compared with 17 for the Russians), some of this potential is beginning to be realized.

Unhappily, the space program's little-known face reflects the swiftest mushrooming of a bureaucratic empire in history, with an unprecedented potential for waste, blunders, mismanagement, selfish political pressures and outrageous pork-barrel grabs of the taxpayers' dollars. Some of this deplorable potential has been realized, and a great many thoughtful people, both in and out of Government, are beginning to ask some searching questions about our long-range space spending.

For example: Is so much headlong and extravagant speed in our nonmilitary space effort setting a disastrously expensive precedent for future interplanetary exploration? Will we find that the possible propaganda benefits of beating the Russians to the moon are not worth all the mistakes and confusion, the wasted billions, which inevitably attend a high-pressure program of this magnitude? Can we continue such a costly pace (studies now are being made for a possible manned flight to Mars in 1973) without courting national bankruptcy?

In the almost 6 years of its existence, the National Aeronautics and Space Administration (NASA) has spent about $12.6 billion, six times the cost of the wartime Manhattan project, which produced the atomic bomb. At its present rate of expenditure—about $5.3 billion a year—total appropriations will have topped $44 billion by the time of the moon launching, if it comes, in 1970. This adds up to about $30 a year for every man, woman, and child in the United States.

BIGGER THAN ALL OUTDOORS

Everything about NASA's program is so huge that it almost defies comprehension. Whole new industrial complexes have sprung up in answer to its demands, and new housing facilities for its people spread across the landscape.

Brevard County in east central Florida, where Cape Kennedy is located, is typical. Its population jumped from 23,652 in 1950 to 153,000 in 1963, and is expected to climb to at least 250,000 by 1970. Now the older installations on Cape Kennedy are inadequate for the enormous Saturn V moon vehicle, which will stand 362 feet high, develop a thrust of 7,500,000 pounds and cost $100 million apiece. Consequently, NASA purchased a new 88,000-acre launching site on nearby Merritt Island at about $200 an acre. Here it is constructing—for an estimated $750 million—a complex of 50 buildings and pads, 17 miles of railroad, a 4-lane causeway, a bank, hospital, police and fire stations, and a heliport.

The key item in this installation is an unbelievable vertical assembly building. It will cost $100 million, and will be taller than any structure south of the Washington Monument, and larger in cubic volume than the Pentagon. To provide a solid foundation for the building, it was necessary to drive over 4,000 steel pipes 160 feet down to limerock. Total cost of the foundation: $8 million.

The Florida space complex is only one of a dozen major NASA installations and numerous secondary facilities—such as the Marshall Space Flight Center in Alabama, the Ames Research Center in California, the Michoud plant on the outskirts of New Orleans, a new testing area in Hancock County, Miss., and the Manned Spacecraft Center at Houston. Nobody can estimate accurately what percentage of NASA's huge expenditures—especially those for research and development—is wasted. In anything as new as space exploration there are bound to be some errors and false starts. Yet evidence is mounting, month by month, that speed

and the bungling which it breeds have resulted in flagrant and needless waste.

MISCALCULATED RISKS

For example, a mistake in specifying the permissible weight of the Surveyor spacecraft designed to orbit the Moon made it necessary to redesign the craft completely, increasing the cost by $20 million.

The General Accounting Office (GAO) estimated in 1963 that bungling by NASA and private industry cost taxpayers $100 million in the Atlas-Centaur launch vehicle development program. Management of this project (since reorganized) was described as "less than adequate." To cite only one error, the first Centaur vehicle blew up 54 seconds after its launching in May 1962—a failure which should have been foreseen and avoided, a board of inquiry found, because data available 20 months earlier indicated that the Centaur weather shield was not designed to withstand the pressure it would meet.

NASA's 1962 probe of the planet Venus was officially hailed as highly successful. Take a look, however, at the history.

In 1960 it was decided to launch an 1,100-pound Mariner spacecraft atop an Atlas-Centaur booster in the summer of 1962, to reach Venus when the planet would be in the most favorable position in relation to the Earth. The craft would carry 16 instruments to report on conditions on and around Venus. It soon became apparent, however, that the Atlas-Centaur would not be ready in time. The target date could have been delayed 19 months until Venus was again in a favorable position. Instead, NASA had the Mariner redesigned—at a cost of $4 million

The new version, weighing only 447 pounds, was launched late in July 1962 atop an Atlas-Agena B rocket. But because of an error in the programing of automatic steering instructions, the rocket went haywire and had to be destroyed. Cost: $20 million. Then, on August 27, Mariner II was launched. It subsequently passed within 21,000 miles of Venus.

This in itself was a notable technological achievement. "But it was more of a stunt than a contribution to science," a noted scientist said recently. "When the size of the Mariner was reduced by more than half, 8 of the 16 scientific instruments aboard had to be dumped. As a result, the spacecraft was not properly equipped. The project added virtually nothing to our knowledge of the planet. The NASA people were in too big a hurry."

CART BEFORE THE HORSE

Lax management may have been a major cause of waste in Project Ranger. This project is under the technical direction of the Jet Propulsion Laboratory at Pasadena through a million-dollar-a-year NASA contract with the California Institute of Technology. In the Ranger program, which so far has cost some $250 million, there have been six failures in six attempts to make close-up photographs of the moon. NASA officials investigating the failures reported that the laboratory had resisted proposed changes to improve reliability of the spacecraft, and had followed a "shoot and hope" policy in its testing.

Some of NASA's major problems have arisen from the fact that research and development have been conducted concurrently instead of making sure, as one Congressman put it, that "the scientific homework is completed before trying to build something." In other words, the desire for speed has tended to get the cart before the horse.

Consider Project Rover—an attempt to produce a nuclear-powered rocket for deep space travel—which so far has cost NASA and the Atomic Energy Commission about $450 million. In the hope of completing the project sometime in the 1970's, work had been proceeding on three stages of development simultaneously: testing prototype reactors on the ground, design and construction of a nuclear rocket, and reactor-in-flight tests. But the first stage of ground testing last year was an outstanding failure, largely because of insufficient research. The whole program had to be rearranged, and Rover's schedule is now highly uncertain. Nobody can say accurately how much of the original $450 million was wasted by the attempted speedup.

THE MONEY MOON

A vivid inside view of the fantastic and wasteful costs involved in any vast crash program is provided by the early history of Project Apollo—the attempt to place men on the moon. When the moon trip was first discussed, NASA's administator, James E. Webb, and his top assistants ordered a detailed study of what would be required and what it would cost. They found that thousands of different elements were needed, from huge launch pads to space suits to wear on the moon. The total tab was about $12.5 billion.

But experience told them they didn't yet have the correct figure. So Webb added an "administrator's markup" of about 60 percent. That brought the total to $20 billion, which President Kennedy then announced as the estimated cost of Project Apollo.

The record demonstrates, however, that NASA cost estimates—even after arbitrary markup—suffer from a powerful tendency toward escalation. Costs of given projects often double or triple before completion. Project Mercury for manned orbit of the earth began as a $200 million program but ended up costing almost $400 million. Project Gemini to put two men into orbit was first estimated at $500 million, but the program has expanded rapidly and will top a billion. The Manned Spacecraft Center in Texas rapidly grew from an original $60 million estimate to a $250 million installation. Most experts now believe that the price tag for placing men on the moon will double—that NASA will have spent some $40 billion on Apollo by 1970.

In the end Project Apollo itself could turn out to be the greatest waste. Many authorities believe it is highly unlikely that man can reach the moon in this decade. As yet, we haven't even been able to land instruments to determine what is on the surface of the moon. Recent discoveries raise a question whether the danger of radiation from solar flares may be far greater for moon voyagers than previously believed. And there are many other stubborn problems yet to be solved.[1]

Even assuming eventual success, enormous waste was built into Project Apollo by turning it for propaganda reasons into a crash program. The political decision to put men on the moon by 1970 was made hurriedly—"over a weekend," one NASA scientist remarked caustically—and at a time when even the ablest scientists could not foresee the magnitude of the task. The decision meant that, instead of developing space capability step by step, the project was vastly speeded up to keep Apollo on schedule at any cost.

COST PLUS

Further waste was built into our space program because, in the past, most NASA research and development projects have been on cost-plus-fixed-fee contracts. The fee or profit is fixed in advance, but the contractor's costs are paid as they accrue. In some cases, of course—especially in research and development, where costs may be unknowable in advance—this system is essential. But its defect is that contractors, knowing they will be repaid anyway, sometimes grow careless about how much they spend.

Only in recent months has NASA begun to exert better control—through incentive contracts—over spending of contractors. Since some of the spiraling costs come about because NASA changes objectives as a program progresses, aims should be more accurately determined before the contracts are let.

WHO'S RESPONSIBLE?

It would be easy but unreasonable to place all the blame for waste in our space program on NASA's management. To be sure, the agency has demonstrated an uninhibited ability to spend money, but it also has been asked to perform a near miracle in getting the United States to the top fast in space capability. Haste, as usual, has made waste, and the responsibility rests primarily upon the administration and Congress.

Administrator Webb insists that, after several reorganizations during the past 2 years, the agency has been brought under efficient control and "the right people have been put in the right spots." One can hope that this is true. One can also hope that, as we move to the other projects even more daring and difficult, Congress will remember Webb's statement: "Our space program has a brake as well as a throttle. We can and will operate on whatever money Congress comes up with."

Right there, of course, lies the crux of the problem. It is not easy to apply the brake. The States and communities that now benefit hugely from NASA spending also exert powerful pressure to keep the golden stream of dollars flowing, while the States that have been left out clamor for their share. This leads to political deals—and to a skyborne porkbarrel, which already has become a powerful factor in economic life here on earth.

[1] See "The Fantastic Hazards of Landing on the Moon," the Reader's Digest, September 1963.

CIGARETTE ADVERTISING

Mrs. NEUBERGER. Mr. President, my admiration for the regulatory agencies of our country has been greatly enhanced this morning because of a report from the very able Chairman of the Federal Trade Commission, Mr. Paul Rand Dixon, before the House Commerce Committee that that Commission has just issued final trade regulation rules affecting the deceptive and unfair advertising and labeling of cigarettes.

If there is any branch of our Government that is representative of the consumer, it is the fourth branch, the regulatory agencies. The great interest in the Surgeon General's report, in the publication of material in many popular magazines, in the report of the American Cancer Society, and others, shows that the public is concerned with what its Government proposes to do about the connection between smoking and disease.

Mr. President, in the tradition of our beloved late colleague, Estes Kefauver, Paul Rand Dixon is carrying on to protect the public in this area.

I wish to read a couple of brief excerpts from the cigarette advertising rules issued less than an hour ago. The Federal Trade Commission ruled:

It is an unfair or deceptive act or practice within the meaning of section 5 of the

Federal Trade Commission Act to fail to disclose, clearly and prominently, in all advertising and on every pack, box, carton, or other container in which cigarettes are sold to the consuming public that cigarette smoking is dangerous to health and may cause death from cancer and other diseases.

Advertising includes all radio and television commercials, newspaper and magazine advertisements, billboards, posters, signs, decals, matchbook advertising, point-of-sale display material, and all other written or other material used for promoting the sale or consumption of cigarettes, but does not include the labeling of packs, boxes, cartons, and other containers in which cigarettes are sold to the consuming public.

I ask unanimous consent that this rule from the Federal Trade Commission together with the accompanying statement be printed in the RECORD. I am asking unanimous consent that it be done, though it is longer than the usual insert, because of the great interest in the rule and the fact that limited copies are available.

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

TRADE REGULATION RULE FOR THE PREVENTION OF UNFAIR OR DECEPTIVE ADVERTISING AND LABELING OF CIGARETTES IN RELATION TO THE HEALTH HAZARDS OF SMOKING

Paragraph 1. The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 United States Code, section 41, et seq., and the provisions of subpart F of the Commission's Procedures and Rules of Practice, 28 Federal Register 7083–94 (July 1963), has conducted a proceeding for the promulgation of a trade regulation rule, or rules, for the prevention of unfair or deceptive acts or practices in the sale of cigarettes. Notice of this proceeding, including a set of proposed rules, was published in the Federal Register on January 22, 1964 (29 F.R. 530–32). Interested parties were therefafter afforded an opportunity to participate in the proceeding through the submission of written data, views, and argument and to appear and express orally their views as to the proposed rules and to suggest revisions thereof and amendments and additions thereto. In adopting this rule, the Commission has given due consideration to all such views, data and arguments together with all other relevant matters of fact, law, policy, and discretion.

Paragraph 2. The Commission, on the basis of the findings made by it in this proceeding, as set forth in the accompanying statement of basis and purpose of trade regulation rule, hereby promulgates as a trade regulation rule its determination that in connection with the sale, offering for sale, or distribution in commerce (as "commerce" is defined in the Federal Trade Commission Act) of cigarettes it is an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. sec. 45) to fail to disclose, clearly and prominently, in all advertising and on every pack, box, carton, or other container in which cigarettes are sold to the consuming public that cigarette smoking is dangerous to health and may cause death from cancer and other diseases.

Paragraph 3. For purposes of this rule:

1. "Cigarette" means any roll of tobacco wrapped in paper or otherwise commonly considered a cigarette.

2. "Advertising" includes all radio and television commercials, newspaper, and magazine advertisements, billboards, posters, signs, decals, matchbook advertising, point-of-sale display material, and all other written or other material used for promoting the sale or consumption of cigarettes, but does not include the labeling of packs, boxes, cartons, and other containers in which cigarettes are sold to the consuming public.

Paragraph 4. In the event that any person subject to this rule is of the opinion that new or changed conditions of fact or law, the public interest, or special circumstances require that the rule be suspended, modified, waived, or repealed as to him, or otherwise altered or amended, such person may file with the Secretary of the Commission a petition to reopen this rulemaking proceeding, stating the changes desired and the grounds therefor. The Commission will act on the petition as provided in section 1.66 of the Commission's Procedures and Rules of Practice.

Paragraph 5. Except with respect to advertising, this rule shall become effective January 1, 1965.

Paragraph 6. With respect to advertising, this rule shall become effective on July 1, 1965; *Provided, however,* That the Commission will entertain an application filed prior to May 1, 1965, by any interested party to postpone the effective date or otherwise suspend, modify, or abrogate the provisions of the rule as to advertising, upon a showing of such change in circumstances as to justify such requested action in the public interest.

Issued June 22, 1964.

By the Commission.

JOSEPH W. SHEA,
Secretary.

SEPARATE STATEMENT BY COMMISSIONER MACINTYRE

I have disagreed with the Commission on the nature of the action and the point of time remedial action should be made effective. It is my view that the Commission's findings and conclusions appropriately are to be considered as an implementation of the findings and conclusions heretofore made in the report of the Advisory Committee to the Surgeon General on "Smoking and Health" and therefore a part of "phase I" of the work of the agencies having responsibility in this matter. This "phase I" is referred to on page 8 of the report of the Advisory Committee to the Surgeon General on "Smoking and Health." It is my view that undertaking remedial action appropriately may be referred to as a part of "phase II." This phase of the handling of this problem also is discussed at page 8 of the report on "Smoking and Health."

No one can deny the importance of "phase II" or of anything done to implement it. Now that the problem is before us, many are suggesting ways and means for its solution. The vastness and importance of the problem requires that we be fairly correct in our solution before we apply it in all of its details and ramifications. This is a matter about which we cannot afford to make a mistake.

For these reasons, I have suggested to the Commission that instead of the remedial action it is taking, it should serve notice that the Commission considers it to be an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to fail to disclose, clearly and prominently, in all advertising and on containers in which cigarettes are sold to the consuming public, an appropriate warning to the effect that cigarette smoking is a health hazard of the nature and to the extent found in the Surgeon General's Advisory Committee report on "Smoking and Health," January 11, 1964. This would leave the specific wording and other details of such warning to be worked out and evolved as developments unfold. These developments are now in evidence on all sides. Moreover, I would set the effective date for the full compliance with proper wording and in all detail, as July 1, 1965. This latter feature of my proposal would provide both the Commission and the industry members with opportunity to evolve complete compliance with the law in the most realistic and effective manner required by the public interest.

What the Commission has done through its implementation of phase I and what other agencies have done and are doing in that regard, will provide guidance for all concerned on the proper solution of this problem in the light of the developments from day to day through the period from now until July 1, 1965.

STATEMENT OF BASIS AND PURPOSE OF TRADE REGULATION RULE FOR THE PREVENTION OF UNFAIR OR DECEPTIVE ADVERTISING AND LABELING OF CIGARETTES IN RELATION TO THE HEALTH HAZARDS OF SMOKING

I. INTRODUCTION

A. Past Commission actions in the field of cigarette advertising and public health

The present Trade Regulation Rule proceeding is the culmination of many years of activity and concern by the Federal Trade Commission with respect to the lawfulness under the Federal Trade Commission Act (15 U.S.C. 41, et seq.) of cigarette advertising,[1] in the light of the questions of human health that have been raised concerning cigarette smoking. The Commission's jurisdiction over unfair trade practices in commerce extends, of course, to the merchandising of cigarettes as of other consumer products, and the Commission has been very active in this field since the 1930's.[2] Between 1945 and 1960 the Commission completed seven formal cease-and-desist order proceedings against cigarette manufacturers involving medical or health claims made in their advertising.[3] Many other proceedings have been settled informally.[4]

On September 15, 1955, the Commission promulgated Cigarette Advertising Guides

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[1] Unless otherwise indicated, "advertising," as used throughout this report, includes labeling and all other promotional materials.

[2] See *Julep Tobacco Co.*, 27 F.T.C. 1637 (1938) (stipulation forbidding claims that Julep cigarettes help counteract throat irritations due to heavy smoking and never make the throat dry or parched); *Green River Tobacco Co.*, 27 F.T.C. 1547 (1938) (stipulation with respect to claims as to mildness and coolness).

[3] *R. L. Swain Tobacco Co.*, 41 F.T.C. 312 (1945); *P. Lorillard Co.*, 46 F.T.C. 735, order modified, *id.*, at 853, aff'd, 186 F. 2d 52 (4th Cir. 1950), contempt proceeding, 6 F.T.C. Statutes and Court Decisions 490 (4th Cir. 1959); *R. J. Reynolds Tobacco Co.*, 46 F.T.C. 706 (1950), modified, 192 F. 2d 535 (7th Cir. 1951), on remand, 48 F.T.C. 682 (1952); *American Tobacco Co.*, 47 F.T.C. 1393 (1951); *Philip Morris & Co., Ltd.*, 49 F.T.C. 703 (1952), vacated and remanded on motion of Commission, 5 F.T.C. Statutes and Court Decisions 790 (D.C. Sir. 1953), complaint dismissed on affidavit of abandonment, 51 F.T.C. 857 (1955); *Liggett & Myers Tobacco Co.*, preliminary injunction denied, 108 F. Supp. 573 (S.D.N.Y. 1952), aff'd mem., 203 F. 2d 956 (2d Cir. 1953), decision of Commission, 55 F.T.C. 354 (1958); *Brown & Williamson Tobacco Corp.*, 56 F.T.C. 956 (1960) (consent order). These proceedings are discussed at various points in this report. In addition, Appendix A to the report contains a brief summary of the acts or practices involved in every one of the Commission's past proceedings in the field of cigarette advertising, including those settled by stipulation.

[4] See notes 2 and 3 supra and Appendix A.

(App. B, infra; see FTC Ann. Rep., 1960, p. 82). Among other things, they prohibit representations, in cigarette advertising or labeling, which refer to either the presence or absence of any physical effects from cigarette smoking, or which make unsubstantiated claims respecting nicotine, tars, or other components of the cigarette smoke, or which in any other respects contain misleading implications concerning the health consequences of smoking cigarettes or the advertised brand. In 1960, the Commission obtained the agreement of the leading cigarette manufacturers to discontinue the confusing and unsubstantiated representations of tar and nicotine content which had characterized the so-called tar derby. (FTC Ann. Rep., 1960, p. 82.)

Since the promulgation of the cigarette advertising guides, the Commission has maintained a close and continuous scrutiny of cigarette advertising practices, and has been deeply attentive to the progress of medical research into the health aspects of cigarette smoking. The Commission's staff has monitored all cigarette advertising during this period, and continues to monitor it today. Close contact has been maintained with the officials of the cigarette industry and with the public and private bodies that have been engaged in scientific research in this field.

With the mounting evidence, in recent years, of the very grave hazards to life and health involved in cigarette smoking (see pt. II of this report, infra), the Commission's concern with fulfilling its statutory responsibilities in the area of cigarette merchandising has increased. The Commission's request for technical guidance from the U.S. Public Health Service on the labeling and advertising of tobacco products was among the factors which led the Surgeon General of the Public Health Service to announce, on June 7, 1962, that he was establishing an expert Advisory Committee to undertake a comprehensive review of all data on smoking and health.[5] This action was approved by President Kennedy on the same day (ACR 8). The Associate Chief of the Division of Scientific Opinions of the Commission's Bureau of Deceptive Practices, a medical doctor, was one of the observers from interested Federal agencies who participated in the initial deliberations of the Advisory Committee.

Months before the completion of the Report of the Surgeon General's Advisory Committee, the Commission organized, from among members of its staff, a task force consisting of attorneys, physicians, and economists, to review and make recommendations with respect to the Commission's responsibilities in the field of cigarette advertising and labeling. The Commission was prepared, when the Advisory Committee's Report was released on January 11, 1964, to act upon the Surgeon General's statement (made in announcing the release of the report) that, "Out of its long and exhaustive deliberations the [Advisory] Committee has reached the overall judgment that cigarette smoking is a health hazard of sufficient importance in the United States to warrant remedial action." (See FTC news release, Jan. 11, 1964.) On the same day, the Commission announced that it would "move promptly, within the scope of its statutory jurisdiction and responsibilities, to determine the remedial action which it should take in the public interest." (Ibid.)

B. The trade regulation rule proceeding

On January 18, 1964, the Commission issued a Notice of Rulemaking Proceeding for the Establishment of Trade Regulation Rules for the Advertising and Labeling of Cigarettes (app. C, infra). The notice, including a set of proposed trade regulation rules, was published in the Federal Register (29 F.R. 530–32 (Jan. 22, 1964)) and copies were sent to all known cigarette manufacturers and to other interested parties, including public health officials, physicians, consumer organizations, and Members of Congress.

The notice set forth the Commission's tentative views with respect to the requirements of the Federal Trade Commission Act, as applied to the advertising and labeling of cigarettes, in the light of the report of the Surgeon General's Advisory Committee. It stated:

* * * * *

"Protection of the consuming public from false, misleading, deceptive or unfair advertising (including labeling) of products that may endanger human health or safety is a prime duty of the Commission. The Commission has reason to believe that much current cigarette advertising may violate the laws administered by the Commission, in that it may prevent or hinder large numbers of consumers from recognizing and appreciating the nature and extent of the substantial health hazard of cigarette smoking.

"Specifically, the Commission is concerned with two ways in which cigarette advertising may be unlawfully misrepresenting or concealing the health hazards of smoking. First, the Commission has reason to believe that many current advertisements falsely state, or give the false impression, that cigarette smoking promotes health or physical well-being or is not a health hazard, or that smoking the advertised brand is less of a health hazard than smoking other brands of cigarettes.

"Second, the Commission has reason to believe that much current advertising suggests or portrays cigarette smoking as being pleasurable or desirable, compatible with physical health, fitness or well-being, or indispensable to full personal development and social success, without at the same time reminding the consumer of the serious health hazard of cigarette smoking. Such advertising may create a psychological and social barrier to the consuming public's understanding and appreciation of the gravity of the risks to life and health involved in cigarette smoking.

* * * * *

"It is established that a seller may not misrepresent, whether affirmatively or by failure of disclosure, the dangers to health or safety involved in using his product. Similarly, a literally true claim regarding the consequences to health or safety of using the product may nevertheless be deceptive because of failure to disclose material facts that limit and qualify the claim. The facts and the public interest may require application of these principles to cigarette advertising and labeling. Thus, if the dangers to health involved in cigarette smoking are so serious that knowledge and appreciation of them would be material factor in influencing a person's decision whether, or how much, to smoke cigarettes or a particular brand of cigarettes, affirmative disclosure of these dangers in cigarette advertising may be a necessary antidote to advertising which, by design or otherwise, may tend to cloud or obscure public consciousness of the health perils of cigarette smoking.

* * * * *

"[T]he Commission invites consideration of the question whether, in the exercise of its statutory jurisdiction and responsibilities, the Commission should promulgate a Code of Fair Cigarette Advertising (under subparts E of F of the Commission's Procedures and Rules of Practice) intended especially to protect the youth of the Nation against unfair or deceptive acts or practices in cigarette advertising. The extensive advertising on television for cigarettes, on programs widely watched by young people, continuously projecting an image of cigarette smoking as a socially desirable and accepted activity, consistent with good health and physical well-being, may have a great impact on impressionable young minds, and may block appreciation of the serious health hazards of smoking cigarettes. There is evidence that "Men who began smoking before age 20 have a substantially higher death rate than those who began after age 25." (Advisory Committee's Rept., p. 29.) This suggests the importance of protecting young people, lacking mature judgment, from being unduly influenced by cigarette advertising to take up smoking, a habit difficult to break. (Id., p. 34.)"

The proposed trade regulation rules published with the notice provides:

"Rule 1: Either one of the following statements shall appear, clearly and prominently, in every cigarette advertisement and on every pack, box, carton and other container in which cigarettes are sold to the public:

"(a) 'Caution—Cigarette Smoking Is a Health Hazard: The Surgeon General's Advisory Committee on Smoking and Health has found that "cigarette smoking contributes substantially to mortality from certain specific diseases and to the overall death rate' "; or

"(b) 'Caution: Cigarette smoking is dangerous to health. It may cause death from cancer and other diseases.'

"Rule 2: No cigarette advertisement[5a] shall state or imply, by words, pictures, symbols, sounds, devices or demonstrations, or any combination thereof, that smoking the advertised cigarettes (a) promotes good health or physical well-being; (b) is not a hazard to health; or (c) is less of a hazard to health than smoking other brands, except that a specific and factual claim respecting the health consequences of smoking the advertised cigarettes may be advertised if (1) the advertiser, before making the claim, has substantial and reliable evidence to prove the accuracy and significance of the claim; and (2) all facts material to the health consequences of smoking the advertised cigarettes are clearly, prominently and intelligibly disclosed in close conjunction with the claim.

"Rule 3: No cigarette advertisement shall contain any statement as to the quantity of any cigarette—smoke ingredients (e.g., tars and nicotine) which has not been verified in accordance with a uniform and reliable testing procedure approved by the Federal Trade Commission."

The notice further stated that all interested persons were invited to file written data, views or argument concerning the proposed rules and the subject matter of the trade regulation rule proceeding with the Commission. The original time limit for such submissions was March 2, 1964, but was subsequently extended to May 15, 1964.[6] The Commission received, and has made a part of the public record of this proceeding, more than 500 letters and other documents from physicians and scientists, lawyers, psy-

[5] Smoking and Health—Report of the Advisory Committee to the Surgeon General of the Public Health Service [hereinafter cited ACR], p. 8 (January 11, 1964). This report has been made a part of the public record of this proceeding; it is Ex. A. (As used herein, "Ex." refers to documents in the public record of this proceeding and "R." to the transcript of the public hearings in the proceeding.)

[5a] For purposes of Rules 2 and 3, "advertisement" includes labeling. [Footnote in original.]

[6] R. 6–7 (opening statement of Chairman Dixon); F.T.C. News Release, April 14, 1964.

chologists, and other persons, and organizations of all kinds, commenting on the proposed rules and the subject matter of the proceeding.

Public hearings were held before the members of the Commission, commencing at 10 a.m., on March 16, 1964, and concluding on the afternoon of March 18. All persons desiring to express orally their views on the proposed rules and the subject matter of the proceeding were permitted to do so. The stenographic transcript of these hearings is 538 pages in length and has been made a part of the public record.

The witnesses at these hearings included a spokesman for the Tobacco Institute (the trade association of the cigarette industry), the Vice Chairman of the Surgeon General's Advisory Committee, the president of the American Cancer Society, prominent doctors and research scientists, Members of Congress, representatives of business, advertising, and consumer groups, and many others.

At the Commission's direction, the staff of the Commission prepared certain materials for inclusion in the public record of this proceeding. The Division of Scientific Opinions of the Bureau of Deceptive Practices gathered and excerpted statements on cigarette smoking and health by United States and foreign health associations, medical societies, governmental health bodies, and officials of international health organizations.[7] The Bureau of Economics prepared and submitted a 288-page report on cigarette advertising and output (Ex. C). This report includes a study of the role of the cigarette industry in the American economy and a study of cigarette consumption and advertising expenditures. Along with the report, the Bureau submitted six volumes of representative cigarette advertisements. The cigarette manufacturers were informed of the submission of these staff reports and were granted a 1-month extension of time within which to submit views, argument and data thereon, should they desire to do so.[8]

In the notice of rulemaking proceeding, in the proposed rules themselves, and in the staff reports to which reference has been made, a full and clear indication of the tentative views of the Commission on the subject matter of this proceeding was given. The Commission made every effort to insure that the cigarette manufacturers, as well as all other interested persons, had actual and sufficient notice of the proposed courses of remedial action under consideration by the Commission. The Commission desired and expected that the cigarette industry would cooperate in the Commission's efforts to fulfill its statutory responsibilities in the field of cigarette advertising. The industry, however, chose to make only a limited presentation in the proceeding. It took the position that the Commission lacks authority to conduct such a proceeding and, alternatively, that if the Commission has such authority, it should not exercise it at this time.[9] The industry has submitted no data or information with respect to such matters as the health hazards of cigarette smoking, the prospects for development of less hazardous cigarettes, and the purpose and effects of cigarette advertising.[10]

C. The limits of the Commission's role in the field of cigarette smoking and public health

The Commission's jurisdiction is limited to unfair or deceptive trade practices. It has no general jurisdiction of public health or morals. In attempting to fulfill its statutory responsibilities to prevent unfair or deceptive cigarette advertising and labeling, the Commission should not be understood as attempting a comprehensive solution to the problem of cigarette smoking and public health, a vast social problem. Labeling and advertising restrictions could not, in any event, provide a complete answer to the social, moral, medical, and economic issues raised by the widespread incidence of the smoking habit, especially among young people. But it does not follow that the Commission should not perform its clear statutory duties with respect to unfair or deceptive trade practices in the cigarette industry. The very gravity of the problem[11] makes it unthinkable that the Commission should abdicate its responsibility to take such remedial action as the law and the public interest require.

II. THE HEALTH HAZARDS OF CIGARETTE SMOKING

A. Introduction: The background of the Advisory Committee's report

Scientific investigation into the association of tobacco use with various diseases began at least as early as 1900, but relatively little research was done until 1939, when the first controlled retrospective study of smoking and lung cancer was conducted.[12] Similar work was published in 1943, 1945, and 1948.[13] The investigatory pace quickened in 1950, when four such studies were published.[14] In 1952, two more were published[15] and in 1953, four more.[16]

The year 1954 was a watershed in the history of smoking research. Four more retrospective surveys added to the accumulation of evidence indicating a relationship between smoking and lung cancer.[17] Perhaps more important, the first results of prospective studies were published.[18] Dr. Joseph Berkson has testified to the great popular impact of these prospective studies, noting that when the first Hammond-Horn report was published, "the conclusion [was] * * * firmly announced, at least in the newspapers, that smoking causes cancer of the lung. * * * [W]e all heard, if in no other way than through vivid reports in the newspapers, that some investigations had shown conclusively that smoking causes cancer of the lung."[19]

In 1954, the accumulated evidence linking smoking with lung cancer made a sharp impact on the scientific community at large. The Public Health Cancer Association and the American Cancer Society adopted resolutions acknowledging an apparent association of smoking with lung cancer, and the British Ministry of Health published a report on "Smoking and Lung Cancer."[20] And it was early in 1954 that tobacco manufacturers,

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[7] The excerpts are Ex. B; the underlying statements from which the excerpts are taken are contained in Appendices to Ex. B.

[8] The staff materials were made a part of the public record on April 10, 1964. On April 14, the Commission announced that it was extending the deadline for written submissions from April 15 to May 15.

[9] See R. 83–A–83–B (statement on behalf of Tobacco Institute). The cigarette manufacturers have advised the Commission that they adopt the position taken by the Tobacco Institute in this proceeding. See Exs. 162, 164, 171, 178, 198, 239, 252. They have not otherwise advised the Commission of their views on this proceeding. Although the only appearance on behalf of the cigarette manufacturers in this proceeding was made by the Tobacco Institute, the Institute apparently takes the position that it has no authority to represent the industry in matters of advertising or labeling. Thus the President of the Institute recently stated: "Neither the Tobacco Institute nor the Tobacco Industry Research Committee, as I am informed, has any responsibility for or concern with the advertising and promotional activities of tobacco companies." Exs. 496, 499.

[10] Certain arguments with respect to the legality and wisdom of the proposed rules were made by the spokesman for the Tobacco Institute at the public hearings; they have been carefully considered by the Commission and are discussed elsewhere in this report. (See Part V–C, infra.)

[11] In 1962, 41,000 Americans died from lung cancer, 15,000 from chronic bronchitis and emphysema, and 578,000 from arteriosclerotic, coronary, and degenerative heart disease. ACR 25.

[12] Muller, "Tabakmissbrauch und Lungencarcinom," Z. Krebsforsch (1939), cited in ACR 150. In retrospective studies, data from the personal histories and medical and mortality records of individuals in groups are considered; in prospective studies, "men and women are chosen randomly or from some special group, such as a profession, and are followed from the time of their entry into the study for an indefinite period, or until they die or are lost on account of other events." Id. at 6.

[13] Schairer and Schoeniger, "Lungenkrebs und Tabakverbrauch," Z. Krebsforsch (1943); Potter and Tully, "The Statistical Approach to the Cancer Problem in Massachusetts," American Journal of Public Health (1945); Wassink, "Ontstaansvoorwaarden voor longkanker, Nederl T. Geneesk (1948), cited at ACR 150.

[14] Schrek, et al., "Tobacco Smoking as an Etiologic Factor in Disease, I. Cancer," Cancer Research (1950); Mills and Porter, "Tobacco Smoking Habits and Cancer of the Mouth and Respiratory System," Cancer Research (1950); Levin, Goldstein, and Gerhardt, "Cancer and Tobacco Smoking: A Preliminary Report," Journal of the American Medical Association (1950); Wynder and Graham, "Tobacco Smoking as a Possible Etiologic Factor in Bronchiogenic Carcinoma: A Study of Six Hundred and Eighty-Four Proved Cases," Journal of the American Medical Association (1950), cited at ACR 150.

[15] McConnell, Gordon, and Jones, "Occupational and Personal Factors in the Etiology of Carcinoma of the Lung," Lancet (London, 1952); Doll and Hill, "A Study of the Aetiology of Carcinoma of the Lung," British Medical Journal (1952), cited at ACR 150.

[16] Sadowsky, Gilliam, and Cornfield, "The Statistical Association Between Smoking and Carcinoma of the Lung," Journal of the National Cancer Institute (1953); Wynder and Cornfield, "Cancer of the Lung in Physicians," New England Journal of Medicine (1953); Koulumies, "Smoking and Pulmonary Carcinoma," Acta Radiol (Stockholm) (1953); Lickint, Atiologie und Prophylaxe des Lungenkrebses: 2. Statistische Voraussetzungen zur Klarung der Tabakrauchatiologie des Lungenkrebses (1953), cited at ACR 150.

[17] Breslow, et al., "Occupations and Cigarette Smoking as Factors in Lung Cancer," American Journal of Public Health (1954); Watson and Conte, "Smoking and Lung Cancer," Cancer (1954); Gsell, "Carcinome bronchique et tabac," Medical Hygiene (1954); Randig, "Untersuchungen zur Atiologie des Bronchialkarzinoms," Oeff Gesundheitsdienst (1954), cited at ACR 150.

[18] Doll and Hill, "The Mortality of Doctors in Relation to Their Smoking Habits: A Preliminary Report," British Medical Journal (1954), cited at ACR 150. Hammond and Horn, "The Relationship Between Human Smoking Habits and Death Rates: A Follow-up Study of 187,766 Men," Journal of the American Medical Association (1954).

[19] Berkson, "Smoking and Cancer of the Lung" (2d (June 1961) reprinting from Proc. Staff Meetings Mayo Clinic (June 22, 1960)), pp. 2, 6.

[20] Statements on Cigarette Smoking and Health by United States and Foreign Health Associations and Organizations, Medical Societies, Governmental Public Health Bodies and Officials, and International Health Organizations (Ex. B in this proceeding) [hereinafter cited "Statements"], App. I, Exs. 9, 3; App. II, Exs. 21, 22.

growers and warehousers, "prompted by the appearance of certain publications claiming an established relationship between cigarette smoking and lung cancer," established the Tobacco Industry Research Committee to sponsor research into questions of tobacco and health and to "communicate authoritative factual information on the subject to the public." [21]

After 1954, a great quantity of new research was published, almost all of which tended to show that cigarette smoking is a cause of lung cancer and other diseases. Among the highlights of the post-1954 research are retrospective studies of lung cancer published in 1955, 1956, and 1957; [22] the second report on the Doll and Hill prospective study (1956); [23] and an important pathological study (also in 1956).[24] To obtain a comprehensive review of the evidence, the American Cancer Society, the National Cancer Institute, the National Heart Institute, and the American Heart Association jointly sponsored a study group on smoking and health. On March 6, 1957, the study group issued its report, in which it concluded that: "The sum total of scientific evidence establishes beyond reasonable doubt that cigarette smoking is a causative factor in the rapidly increasing incidence of human epidermoid carcinoma of the lung. The evidence of a cause-effect relationship is adequate for considering the initiation of public health measures." [Statements, App. I, Ex. 8.]

The British Medical Research Council completed a comprehensive review of the evidence in June 1957. Its conclusions were similar to those of the study group: "Evidence from many investigations in different countries indicates that a major part of the increase [in death rate from lung cancer] is associated with tobacco smoking, particularly in the form of cigarettes. In the opinion of the Council, the most reasonable interpretation of this evidence is that the relationship is one of direct cause and effect." [Id., App. II, Ex. 24.]

In July 1957, the Surgeon General of the U.S. Public Health Service, Dr. Leroy Burney, declared: "The Public Health Service feels the weight of the evidence is increasingly pointing in one direction: that excessive smoking is one of the causative factors in lung cancer." [ACR 7.]

Earlier the same year, at hearings held by the Legal and Monetary Affairs Subcommittee of the House Committee on Government Operations (Blatnik Subcommittee), the Surgeon General had testified: "It is clear there is an increasing and consistent body of evidence that excessive cigarette smoking is one of the causative factors in lung cancer." [H.R. Rep. 7.]

"Dr. [John R.] Heller, Director of the National Cancer Institute, told the subcommittee that the 'overwhelming majority' of scientists and physicians in the Public Health Service supported this position He also estimated that 75 percent of physicians and scientists 'who have knowledge and some competence within this area' would also support the stand of the Surgeon General." (Ibid.)

While some dissent was expressed,[25] the evidence of the health hazards of smoking continued to mount.[26] In 1959, the Commissioner of Health of New York State found "no reasonable doubt on the part of authoritative health agencies concerned with cancer that the use of tobacco acts in some way to increase the chances of developing lung cancer to a significant degree." [Statements, App. I, Exs. 49 and 45.]

In the same year, the American Public Health Association called for action because "scientific evidence has established that excessive cigarette smoking is a major factor [in lung cancer]" (Statements, App. I, Ex. 1); and Surgeon General Burney, reviewing the additional research since his 1957 statement, reiterated the belief of the Public Health Service that:

"The weight of evidence at present implicates smoking as the principal etiological [causal] factor in the increased incidence of lung cancer.

"Cigarette smoking particularly is associated with an increased chance of developing lung cancer.

"No method of treating tobacco or filtering the smoke has been demonstrated to be effective in materially reducing or eliminating the hazard of lung cancer." [ACR 7.]

In 1960, further significant research was published.[27] In that year the Board of Directors of the American Cancer Society expressed its judgment that: "the clinical, epidemiologic, experimental, chemical and pathological evidence * * * indicates beyond reasonable doubt that cigarette smoking is the major cause of the unprecedented increase in lung cancer." [Statements, App. I, Ex. 4.]

The National Tuberculosis Association warned: "cigarette smoking is a major cause of lung cancer * * *. No present method of treating tobacco or filtering the smoke has been proved to reduce the harmful effects of cigarette smoking." [Id., App. I, Ex. 6.]

A World Health Organization Study Group identified cigarette smoking as a major cause of lung cancer: "The Study Group unanimously agreed that there was no reason to modify the conclusions reached by these experts [the 'official, voluntary and other scientific bodies [which] have reviewed the evidence bearing on this association' between cigarette smoking and lung cancer] that the sum total of the evidence available today was most reasonably interpreted as indicating that cigarette smoking is a major causative factor in the increasing incidence of human carcinoma of the lung. Recognizing that this conclusion has not been accepted by all who have studied or written on the subject, the Study Group agreed that while some of the criticisms leveled did suggest avenues for further investigation, none could be considered as casting any serious doubt on the conclusions reached on the basis of the extensive studies already made." [Statements, App. III, Ex. 2.]

In 1961, the heads of the American Cancer Society, the American Public Health Association, the American Heart Association, and the National Tuberculosis Association urged the President of the United States to establish a commission to study the "widespread implications of the tobacco problem" (ACR 7). On January 4, 1962, representatives of these four organizations met with Surgeon General Luther L. Terry. Shortly thereafter, the Surgeon General recommended the establishment of an advisory committee composed of "outstanding experts who would assess available knowledge in this area [smoking and health] and make appropriate recommendations." (Ibid.)

Meanwhile, the Royal College of Physicians of London issued a report, "Smoking and Health," in which it concluded: "Cigarette smoking is a cause of lung cancer, and bronchitis and probably contributes to the development of coronary heart disease and various other less common diseases. It delays healing of gastric and duodenal ulcers." [Statements, App. II, Exs. 28 and 29.]

On April 16, 1962, the Suregon General proposed that the advisory group reevaluate the Public Health Service position, which had been expressed by Suregon General Burney in 1959, in the light of certain significant developments between 1959 and 1962, among them new studies indicating that smoking has major adverse health effects and evidence that medical opinion had shifted significantly against smoking (ACR 7–8).

Also in 1962, smoking was characterized as a health hazard by the Board of Regents of the American College of Chest Physicians and by the Canadian Cancer Society. (Statements, App. I, Ex. 19; App. II, Ex. 15.) The Council of the American College Health Association observed that: "A preponderance of scientific evidence (with scant counterevidence) indicates an association relationship and suggests a causal relationship between cigarette smoking and some diseases." (Id., App. I, Ex. 14.)

The Dominion Council of Health of Canada found that "overwhelming evidence shows a direct relationship between cigarette smoking and lung cancer" (id., App. II, Ex. 38), and the Canadian Medical Association declared that "The causal relationship between smoking, particularly cigarette smoking, and the alarming increase in cancer of the lung

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[21] H.R. Rep. No. 1372, "False and Misleading Advertising (Filter-Tip Cigarettes)," 85th Cong., 2d Sess. [hereinafter cited "H.R. Rep."], p. 3 (1958).

[22] Stocks and Campbell, "Lung Cancer Death Rates Among Non-Smokers and Pipe and Cigarette Smokers: An Evaluation in Relation to Air Pollution by Benzpyrene and Other Substances," British Medical Journal (1955); Wynder, et al., Lung Cancer in Women: A Study of Environmental Factors," New England Journal of Medicine (1956); Segi, et al., "An Epidemiological Study on Cancer in Japan, Gann (1957); Mills and Porter, "Tobacco Smoking, Motor Exhaust Fumes, and General Air Pollution in Relation to Lung Cancer Incidence," Cancer Research (1957); Stocks, "Cancer, Incidence in North Wales and Liverpool Region in Relation to Habits and Environment. IX. Smoke and Smoking," British Empire Cancer Campaign (1957); Schwartz and Denoix, "L'enquete francaise sur l' etiologie du cancer broncho-pulmonaire: Role du tabac," Sem. Hop. Paris (1957), cited at ACR 150.

[23] Doll and Hill, "Lung Cancer and Other Causes of Death in Relation to Smoking: A Second Report on the Mortality of British Doctors," British Medical Journal (1956), cited at ACR 150.

[24] Auerbach, et al., "The Anatomical Approach to the Study of Smoking and Bronchogenic Carcinoma: A Preliminary Report of 41 Cases," Cancer (1956), cited at ACR 167.

[25] E. g., Berkson, supra note 19; Eastcott, "The Epidemiology of Lung Cancer in New Zealand," Lancet (1956); Herdan, "Increase in the Mortality Due to Cancer of the Lung in the Light of the Distribution of the Disease Among the Different Social Classes and Occupations," British Journal of Cancer (1958); Dean, "Lung Cancer Among White South Africans," British Medical Journal (1959).

[26] See Haenszel, Shimkin, and Mantel, "A Retrospective Study of Lung Cancer in Women, Journal of the National Cancer Institute (1958); Hammond and Horn, "Smoking and Death Rates—Report on Forty-Four Months of Follow-up of 187,783 Men: I. Total Mortality," Journal of the American Medical Association (1958); Hammond and Horn, "Smoking and Death Rates—Report on Forty-Four Months of Follow-up of 187,783 Men: II. Death Rates by Cause," Journal of the American Medical Association (1958); Dorn, "The Mortality of Smokers and Non-Smokers," American Statistical Association, Proceedings of the Social Statistics Section (1958); Lombard and Snegireff, "An Epidemiological Study of Lung Cancer," Cancer (1959), cited at ACR 150.

[27] Dunn, Linden, and Breslow, "Lung Cancer Mortality Experience of Men in Certain Occupations in California," American Journal of Public Health (1960); Auerbach, et al., "Microscopic Examination of Bronchial Epithelium in Children," American Review of Respiratory Diseases (1960), cited at ACR 150, 170.

is now accepted in medical and scientific circles." (Id., App. II, Ex. 9.)

The American Cancer Society published a booklet, "Cigarette Smoking and Cancer," in which it found no reasonable explanation other than causation for the "consistent association" between cigarette smoking and lung cancer. (Id., App. I, Ex. 5.) The Subcommittee on Bronchitis of the Standing Medical Advisory Committee of the Scottish Home and Health Department, "having reviewed the rapidly accumulating evidence, * * * [was] firmly of the view that smoking is one of the most important causes of bronchitis." (Id., App. II, Ex. 32.) And the "First Report of an Expert Committee on Cancer Control of the World Health Organization" noted that "the relationship between cigarette smoking and the rapidly increasing incidence of cancer of the lung is well known" (id., App. III, Ex. 3).

In 1963, the House of Delegates of the American Medical Association acknowledged its "duty to point out the effects on the young of the use of toxic materials, including tobacco."[28] The Canadian Public Health Association accepted the evidence "that cigarette smoking is a major * * * cause of lung cancer" (statements, App. II, Exs. 13 and 14). And the American Public Health Association adopted a resolution characterizing the current level of cigarette smoking as a "serious health hazard" (id., App., I, Ex. 2).

Finally, on January 11, 1964, the Report of the Surgeon General's Advisory Committee on Smoking and Health was published. Its judgment was that "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action." (ACR 33.)

B. The present state of knowledge concerning the health hazards of cigarette smoking

1. "The report of the Surgeon General's Advisory Committee on Smoking and Health."—(a) Genesis, methodology, etc.: In 1962, the Nation's highest public health officer, Dr. Luther L. Terry, the Surgeon General of the U.S. Public Health Service, "appointed a committee, drawn from all the pertinent scientific disciplines, to review and evaluate both this new and older data and, if possible, to reach some definitive conclusions on the relationship between smoking and health in general."[29] The data to which he had reference consisted of the mounting evidence, some of which we have already discussed, of the causal relationship between cigarette smoking and death from certain diseases. Specifically, Dr. Terry felt that the following new developments in the period 1959–62 emphasized the need for a comprehensive and, if possible, definitive reexamination of the health issue:

1. New studies indicating that smoking has major adverse health effects.

2. Representations from national voluntary health agencies for action on the part of the Service.

3. The recent study and report of the Royal College of Physicians of London.

4. Action of the Italian Government to forbid cigarette advertising; curtailed advertising of cigarettes by Britain's major tobacco companies on TV; and a similar decision on the part of the Danish tobacco industry.

5. A proposal by Senator MAURINE NEUBERGER that Congress create a commission to investigate the health effects of smoking.

6. A request for technical guidance by the Service from the Federal Trade Commission on labeling and advertising of tobacco products.

7. Evidence that medical opinion has shifted significantly against smoking (ACR 8).

The methodology of the Advisory Committee was agreed upon at a meeting at which the Tobacco Institute, along with other interested organizations such as the American Cancer Society and the American Medical Association, was represented. It was decided that "An objective assessment of the nature and magnitude of the health hazard * * * [would] be made by an expert scientific advisory committee which would review critically all available data but would not conduct new research. This Committee would produce and submit to the Surgeon General a technical report containing evaluations and conclusions" (ACR 8):

"The participants in the meeting * * * compiled a list of more than 150 scientists and physicians working in the fields of biology and medicine, with interests and competence in the broad range of medical sciences and with capacity to evaluate the elements and factors in the complex relationship between tobacco smoking and health. During the next month, these lists were screened by the representatives of organizations present at the July 27 meeting. Any organization could veto any of the names on the list, no reasons being required. Particular care was taken to eliminate the names of any persons who had taken a public position on the questions at issue. From the final list of names the Surgeon General selected 10 men who agreed to serve on the * * * Committee." [ACR 8–9.]

This method of selecting the members of the Advisory Committee reflected the Surgeon General's determination that "if it were humanly possible the new study would be done in such a way that something might be settled no matter what conclusions the committee might reach, at least until substantial new evidence accumulated."[30] "[T]he members were to be competent and impartial in appearance and in fact." (R. 10, testimony of Dr. Hundley.) Thus, the cigarette industry had an absolute veto over nominees to the Advisory Committee (R. 32, testimony of Dr. Hundley); in addition, 1 of the 10 members of the Committee was nominated by the Tobacco Institute.[31]

The Advisory Committee's report describes how its work was actually conducted (ACR 13–19):

"At the outset, the Surgeon General emphasized his respect for the freedom of the committee to proceed with the study and to report as it saw fit, and he pledged all support possible from the U.S. Public Health Service. The Service, represented chiefly by his office, the National Institutes of Health, the National Library of Medicine, the Bureau of State Services, and the National Center for Health Statistics, furnished the able and devoted personnel that constituted the staff at the Committee's headquarters in Washington, and provided an extraordinary variety and volume of supplies, facilities, and resources. In addition, the necessary financial support was made available by the Service.

* * * * *

"As the primary duty of the Committee was to assess information about smoking and health, a major general requirement was that of making the information available. That requirement was met in three ways. The first and most important was the bibliographic service provided by the National Library of Medicine. As the annotated monograph by Larson, Haag, and Silvette—compiled from more than 6,000 articles published in some 1,200 journals up to and largely into 1959—was available as a basic reference source, the National Library of Medicine was requested to compile a bibliography (by author and by subject) covering the world literature from 1958 to the present. In compliance with this request, the National Library of Medicine furnished the Committee bibliographies containing approximately 1,100 titles. Fortunately, the committee staff was housed in the National Library of Medicine on the grounds of the National Institutes of Health, and through this location had ready access to books and periodicals, as well as to scientists working in its field of interests. Modern apparatus for photo reproduction of articles was used constantly to provide copies needed for study by members of the Committee. In addition, the members drew upon the libraries and

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[28] Id., App. I, Ex. 11. In light of this resolution, the AMA's division of environmental medicine and medical services recently issued a booklet warning that, "The longer you smoke and the more you smoke the greater the risk of developing lung cancer." Wall Street Journal, Friday, May 8, 1964, p. 5, cols. 1–2.

[29] ACR, p. v. The President acknowledged and approved the Surgeon General's action on the same day. Ibid.

[30] R. 10 (testimony of Dr. James M. Hundley, Assistant Surgeon General of the United States Public Health Service and Vice Chairman of the Advisory Committee).

[31] Ibid. The members of the Committee as finally selected were the following: (see ACR 9–10).

Stanhope Bayne-Jones, M.D., LL.D. (Retired), former Dean, Yale School of Medicine (1935–40); former President, Joint Administrative Board, Cornell University, New York Hosp'tal Medical Center (1947–52); former President, Society of American Bacteriologists (1929); and American Society of Pathology and Bacteriology (1940). Field: Nature and Causation of Disease in Human Populations.

Dr. Bayne-Jones served also as a special consultant to the Committee staff.

Walter J. Burdette, M.D., Ph. D., Head of Department of Surgery, University of Utah School of Medicine, Salt Lake City. Fields: Clinical & Experimental Surgery; Genetics.

William G. Cochran, M.A., Professor of Statistics, Harvard University. Field: Mathematical Statistics, with Special Application to Biological Problems.

Emmanuel Farber, M.D., Ph. D., Chairman, Department of Pathology, University of Pittsburgh. Field: Experimental and Clinical Pathology.

Louis F. Fieser, Ph. D., Sheldon Emory Professor of Organic Chemistry, Harvard University. Field: Chemistry of Carcinogenic Hydrocarbons.

Jacob Furth, M.D., Professor of Pathology, Columbia University, and Director of Pathology Laboratories, Francis Delafield Hospital, New York, N.Y. Field: Cancer Biology.

John B. Hickam, M.D., Chairman, Department of Internal Medicine, University of Indiana, Indianapolis. Fields: Internal Medicine, Physiology of Cardiopulmonary Disease.

Charles LeMaistre, M.D., Professor of Internal Medicine, The University of Texas Southwestern Medical School, and Medical Director, Woodlawn Hospital, Dallas, Texas. Fields: Internal Medicine, Pulmonary Disease, Preventive Medicine.

Leonard M. Schuman, M.D., Professor of Epidemiology, University of Minnesota School of Public Health, Minneapolis. Field: Health and Its Relationship to the Total Environment.

Maurice H. Seevers, M.D., Ph. D., Chairman, Department of Pharmacology, University of Michigan, Ann Arbor. Field: Pharmacology of Anesthesia and Habit-Forming Drugs.

Chairman: Luther L. Terry, M.D., Surgeon General of the United States Public Health Service.

Vice Chairman: James M. Hundley, M.D., Assistant Surgeon General for Operations, United States Public Health Service.

bibliographic services of those institutions in which they held academic positions. A considerable volume of copies of reports and a number of special articles were received from a variety of additional sources.

"All of the major companies manufacturing cigarettes and other tobacco products were invited to submit statements and any information pertinent to the inquiry. The replies which were received were taken into consideration by the Committee.

"Through a system of contracts with individuals competent in certain fields, special reports were prepared for the use of the Committee. Through these sources much valuable information was obtained; some of it new and hitherto unpublished.

"In addition to the special reports prepared under contracts, many conferences, seminar-like meetings, consultations, visits and correspondence made available to the Committee a large amount of material and a considerable amount of well-informed and well-reasoned opinion and advice.

"To deal in depth and discrimination with the topics listed above, the Committee at its first meeting formed subcommittees with much overlapping in membership. These subcommittees were the main forces engaged in collection, analysis, and evaluation of data from published reports, contractual reports, discussions at conferences, and from some new prospective studies reprogramed and carried out generously at the request of the Committee * * *. The first formulations of conclusions were made by these subcommittees, and these were submitted to the full Committee for revision and adoption after debate.

* * * * *

"In making critical appraisals of data and interpretations and in formulating its own conclusions, the Surgeon General's Advisory Committee on Smoking and Health—its individual members and its subcommittees and the Committee as a whole—made decisions or judgments at three levels. These levels were:

"1. Judgment as to the validity of a publication or report. Entering into the making of this judgment were such elements as estimates of the competence and training of the investigator, the degree of freedom from bias, design scope of the investigation, adequacy of facilities and resources, adequacy of controls.

"2. Judgment as to the validity of the interpretations placed by investigators upon their observations and data, and as to the logic and justification of their conclusions.

"3. Judgments necessary for the formulation of conclusions within the Committee.

"The primary reviews, analyses and evaluations of publications and unpublished reports containing data, interpretations and conclusions of authors were made by individual members of the Committee and, in some instances, by consultants. Their statements were next reviewed and evaluated by a subcommittee. This was followed at an appropriate time by the Committee's critical consideration of a subcommittee's report, and by decisions as to the selection of material for inclusion in the drafts of the report, together with drafts of the conclusions submitted by subcommittees. Finally, after repeated critical reviews of drafts of chapters, conclusions were formulated and adopted by the whole Committee, setting forth the considered judgment of the Committee."

The methodology of the Advisory Committee—the mode of selecting the members of the Committee and the comprehensive, scrupulous, and exacting nature of the Committee's inquiry—appears to have been designed to assure maximum objectivity, disinterest, and competence. In the words of the vice chairman, Dr. Hundley, the objective was "a study and report that would be authoritative, conclusive, and which could be the basis for policy and action" (R. 11).

That this objective has been attained is suggested by the following factors, among others: On January 27, 1964, shortly after the report of the Advisory Committee had been released, the Surgeon General announced the "full acceptance of the principal findings and conclusions of the report" by the Public Health Service (R. 9). The president of the American Cancer Society has stated that he accepts the findings of the Committee "absolutely" (R. 237). A prominent research scientist in the field has stated that the procedure and findings of the Committee were "conservative to an extreme," and that no public or private body which wanted to inform itself, objectively and impartially, as to the state of the evidence on the health hazards (if any) of cigarette smoking, could have done a more adequate job of inquiry and analysis (R. 323, testimony of Dr. Bock). Significantly, also, the cigarette manufacturers, in their appearance before the Commission in this proceeding, made no challenge whatever to the procedure or findings of the Advisory Committee.

The Commission concludes that the report of the Advisory Committee is of the highest authority and reliability. Its essential findings stand unchallenged and uncontroverted in this proceeding.

Findings: Excerpts from the findings and conclusions of the Advisory Committee's report follow:

"On the basis of prolonged study and evaluation of many lines of converging evidence, the Committee makes the following judgment:

"Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action. [ACR 33.]

* * * * *

"Cigarette smoking is associated with a 70-percent increase in the age-specific death rates of males, and to a lesser extent with increased death rates of females. The total number of excess deaths causally related to cigarette smoking in the U.S. population cannot be accurately estimated. In view of the continuing and mounting evidence from many sources, it is the judgment of the Committee that cigarette smoking contributes substantially to mortality from certain specific diseases and to the overall death rate. [Id., at 31.]

* * * * *

"In general, the greater the number of cigarettes smoked daily, the higher the death rate. For men who smoke fewer than 10 cigarettes a day, according to the 7 prospective studies, the death rate from all causes is about 40 percent higher than for nonsmokers. For those who smoke from 10 to 19 cigarettes a day, it is about 70 percent higher than for nonsmokers; for those who smoke 20 to 39 a day, 90 percent higher; and for those who smoke 40 or more, it is 120 percent higher.

"Cigarette smokers who stopped smoking before enrolling in the seven studies have a death rate about 40 percent higher than nonsmokers, as against 70 percent higher for current cigarette smokers. Men who began smoking before age 20 have a substantially higher death rate than those who began after age 25. Compared with nonsmokers, the mortality risk of cigarette smokers, after adjustments for differences in age, increases with duration of smoking (number of years), and is higher in those who stopped after age 55 than for those who stopped at an earlier age.

"In two studies which recorded the degree of inhalation, the mortality ratio for a given amount of smoking was greater for inhalers than for noninhalers. [Id., at 29.]

* * * * *

"Cigarette smoking is causally related to lung cancer in men; the magnitude of the effect of cigarette smoking far outweighs all other factors. The data for women, though less extensive, point in the same direction.

"The risk of developing lung cancer increases with duration of smoking and the number of cigarettes smoked per day, and is diminished by discontinuing smoking. In comparison with nonsmokers, average male smokers of cigarettes have approximately a nine of tenfold risk of developing lung cancer and heavy smokers at least a twenty-fold risk. [Id., at 31.]

* * * * *

"Cigarette smoking is the most important of the causes of chronic bronchitis in the United States, and increases the risk of dying from chronic bronchitis.

"A relationship exists between pulmonary emphysema and cigarette smoking but it has not been established that the relationship is causal. The smoking of cigarettes is associated with an increased risk of dying from pulmonary emphysema.

"For the bulk of the population of the United States, the importance of cigarette smoking as a cause of chronic bronchopulmonary disease is much greater than that of atmospheric pollution or occupational exposures.

"Cough, sputum production, or the two combined, are consistently more frequent among cigarette smokers than among nonsmokers.

"Cigarette smoking is associated with a reduction in ventilatory function. Among males, cigarette smokers have a greater prevalence of breathlessness than nonsmokers. [Id., at 38.]

* * * * *

"The habitual use of tobacco is related primarily to psychological and social drives, reinforced and perpetuated by the pharmacological actions of nicotine on the central nervous system. [Id., at 34.]

* * * * *

"Smokers and users of tobacco in other forms usually develop some degree of dependence upon the practice, some to the point where significant emotional disturbances occur if they are deprived of its use. The evidence indicates this dependence to be psychogenic in origin. In medical and scientific terminology the practice should be labeled habituation to distinguish it clearly from addiction, * * * [but] correctly designating the chronic use of tobacco as habituation rather than addiction carries with it no implication that the habit may be broken easily. [Id., at 350–51.]

* * * * *

"At the 12th-grade level, between 40 to 55 percent of children have been found to be smokers. By age 25, estimates of smoking prevalence run as high as 60 percent of men and 36 percent of women. * * * More recent but limited data suggest that there has been an increment in smoking prevalence at all age levels since the early fifties.

"[It is estimated] that 10 percent of later smokers 'develop the habit with some degree of regularity' before their teens and 65 percent during their high school years. [Id., at 361–62.]

* * * * *

"All available knowledge points toward the years from the early teens to the age of 20 as a significant period during which a majority of later smokers began to develop the active habit. [Id., at 368.]

* * * * *

"The cultural milieu seems to have a strong influence, a permissive cultural climate tending to promote and a rejecting or outright prohibitive one to inhibit smoking. [Id., at 377.]

* * * * *

"The overwhelming evidence points to the conclusion that smoking—its beginning, habituation, and occasional discontinua-

tion—is to a large extent psychologically and socially determined. [Ibid.]"

The Advisory Committee explained its use of the language of causation to describe some of its findings, notably with respect to lung cancer: "It is to be noted clearly that the Committee's considered decision to use the words 'a cause,' or 'a major cause,' or 'a significant cause,' or 'a causal association' in certain conclusions about smoking and health affirms their convictions." (Id., at 21.) Thus, it is clear that the Committee regarded its crucial findings as to the dangers of cigarette smoking not as tentative or hypothetical, but as clearly compelled by the evidence. In finding causal relationships between smoking and certain diseases, incidentally, the Committee expressly stated that "Statistical methods cannot establish proof of a causal relationship in an association." (Id., at 20.) It should also be noted that the Advisory Committee's findings are not limited to any particular brand or type of cigarette, but embrace cigarette smoking in general. The Committee made no finding that any cigarette currently produced is safe or safer than other cigarettes. (See R. 15–16, testimony of Dr. Hundley.)

2. The present scientific consensus regarding the health hazards of smoking: As our review in subpart A, supra, of the evolution of expert scientific opinion in the field of smoking and health has made apparent, the findings and conclusions of the Advisory Committee's report can hardly be considered a "bolt from the blue"—an isolated, sudden, or novel judgment on the evidence. On the contrary, the report is the culmination and distillation of a series of careful and expert analyses of the accumulated research, all of which have reached essentially the same conclusion: that cigarette smoking is a sufficiently substantial, proven health hazard to warrant governmental remedial action. The authority of the Advisory Committee's report is enhanced by the existence of a consensus of expert opinion on the report's principal findings and conclusions.

For example, in 1962 there appeared "Smoking and Health: Summary and Report of the Royal College of Physicians of London on Smoking in Relation to Cancer of the Lung and Other Diseases." (Statements, app. II, ex. 28.) In this thorough and careful appraisal of the evidence, which took several years to complete and is comparable in scope to the Advisory Committee's report, it was found:

"Cigarette smoking is a cause of lung cancer, and bronchitis and probably contributes to the development of coronary heart disease and various other less common diseases. * * * The chance of dying in the next 10 years for a man aged 35 who is a heavy cigarette smoker is 1 in 23 whereas the risk for a nonsmoker is only 1 in 90. Only 15 percent (one in six) of men of this age who are nonsmokers but 33 percent (one in three) of heavy smokers will die before the age of 65. Not all this difference in expectation of life is attributable to smoking." [P. S7.]

* * * * *

General discouragement of smoking, particularly by young people, is necessary. More effort needs to be expended on discovering the most effective means of dissuading children from starting the smoking habit. There can be no doubt of our responsibility for protecting future generations from developing the dependence on cigarette smoking that is so widespread today.

Most adults have heard of the risks of cigarette smoking but remain unconvinced. Doctors, who see the consequences of the habit, have reduced their cigarette consumption. Some evidence of concern by the Government is needed to convince the public [pp. S7–S8].

Also, as noted earlier, many other expert bodies have reviewed the evidence and concluded that the substantial health hazards of cigarette smoking are clearly established. They include the World Health Organization, the British Ministry of Health, the American Public Health Association, and the American Cancer Society. No disinterested expert body, upon a systematic review of the evidence, has reached conclusions opposed to those of the College of Royal Physicians, the Surgeon General's Advisory Committee, and the many other highly competent and reliable organizations that have expressed themselves on the subject. Although there may not yet be complete unanimity on the question,[32] there is plainly an authoritative consensus of qualified expert opinion.

C. The Commission's reliance on the report of the Surgeon General's Advisory Committee

Does the Advisory Committee's report—its findings and conclusions—provide an appropriate basis for remedial action by the Commission in the form of a trade regulation rule? Or must the Commission, rather than rely upon the report, make an independent, de novo inquiry into whether, in fact, cigarette smoking is a substantial health hazard, as the report found? In the particular circumstances, the former is a proper course for the Commission to take; moreover, it is the only practical course consistent with its statutory responsibilities.

The Commission is fully competent to make findings with respect to the medical or other scientific issues which frequently arise in the course of proceedings before it. It does so constantly. It entertains the opinion of qualified experts and weighs their testimony. Its findings need not rest upon unanimous expert opinion; the fact that there is a conflict in the expert testimony before the Commission on a medical or scientific issue does not preclude a finding with respect to that issue; and the finding need only be based on substantial evidence to be upheld by a reviewing court.[33]

The findings on the health hazards of cigarette smoking that have been made by the Surgeon General's Advisory Committee on Smoking and Health warrant the Commission's full reliance. The report of the Advisory Committee does not simply express the opinion of a group of experts, which must be weighed against the opinions of other experts before a final determination can be made. The report is unique in several respects.

In the first place, the Advisory Committee was not a private group of experts. It was convened under the auspices of the U.S. Public Health Service—the Nation's highest governmental body in the field of public health—and its chairman was the Surgeon General of the Service—the Nation's highest medical official. Its findings and conclusions have been formally approved by the Public Health Service. The public status of the Committee entitles its findings and conclusions to the greatest respect. (Cf. *James S. Kerk & Co.* v. *F.T.C.*, 59 F. 2d 179 (7th Cir. 1932).)

Moreover, the Advisory Committee was established for the express purpose of weighing the opinions of the medical and other scientific experts in the field of smoking and health in order to arrive at a determination sufficiently definite to provide a basis for appropriate remedial action by public agencies, such as the Federal Trade Commission, having statutory responsibilities in the field. The Committee, accordingly, did not itself engage in research; nor was it composed of persons who had done research, or taken a position, publicly or privately, or were in any way partial, on the question of smoking and health. The job of the Committee was to weigh the evidence, much like a jury of experts,[34] rather than to gather more evidence. The Committee was created as a specialized and impartial (albeit ad hoc) body to appraise certain medical and scientific evidence, just as the Trade Commission was created as a specialized and impartial body to appraise evidence regarding business practices.

The impartiality of the Committee and the fairness and objectivity of its procedures are beyond dispute. The members of the Committee were selected, and its methods of operation and general approach devised, in full cooperation with the cigarette industry and were fully acceptable to the industry. The Committee was the agreed-upon means of arbitrating the scientific aspects of the smoking and health controversy for the purpose of enabling such remedial action as might be appropriate. For the Trade Commission to reexamine de novo the findings of the Advisory Committee would subvert the basic purpose behind the Committee, which was to settle the controversy, by means acceptable to the industry as well as to the health organizations at least until substantial new evidence should become available.

It is difficult to conceive on what basis an agency, whether the Commission or any other, would assume to reexamine the evidentiary foundation of the findings of the Advisory Committee. What body would have greater objectivity or expertise than the Committee? What body would be competent to pronounce the Committee's findings and conclusions contrary to the weight of the evidence? By agreement between the cigarette industry and other interested agencies and organizations, the Advisory Committee was given, as it were, "primary jurisdiction" [35] to determine the health hazards of smoking. Since the Advisory Committee is the body having special competence to determine the health hazards of smoking, the Commission accepts the Committee's findings and conclusions, which are unimpeached and were made in accordance with impartial, objective, and thoroughly reliable procedures.

The findings and conclusions of the Advisory Committee's report represent, in light of the nature of the issues and the gravity of the smoking and health problems, a compelling basis for remedial action by the Federal Trade Commission within its statutory

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[32] See, e.g., Ex. 318(n) (letter from Dr. Joseph Berkson).

[33] See, e.g., *Wybrant System Products Corp.* v. *F.T.C.*, 266 F. 2d 571 (2nd Cir. 1959) (*per curiam*); *Erickson Hair & Scalp Specialists, Inc.* v. *F.T.C.*, 272 F. 2d 318, 321 (7th Cir. 1959); *Aronberg* v. *F.T.C.*, 132 F. 2d 165 (7th Cir. 1942); *Justin Haynes & Co.* v. *F.T.C.*, 105 F. 2d 988, 989 (2nd Cir. 1939); *John J. Fulton Co.* v. *F.T.C.*, 130 F. 2d 85 (9th Cir. 1942); *Neff* v. *F.T.C.*, 117 F. 2d 495 (4th Cir. 1941); *Charles of the Ritz Dist. Corp.* v. *F.T.C.*, 143 F. 2d 676 (2nd Cir. 1944); *J. E. Todd, Inc.* v. *F.T.C.*, 145 F. 2d 858 (D.C. Cir. 1944).

[34] In the words of Surgeon General Terry, "The Advisory Committee on Smoking and Health, which examined the evidence and reached a unanimous verdict, was a scientific jury." Address, National Conference on Smoking and Youth, June 10–11, 1964, p. 3.

[35] "[T]he doctrine of 'primary jurisdiction' * * * requires judicial abstention in cases where protection of the integrity of a regulatory scheme dictates preliminary resort to the agency which administers the scheme." *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 353 (1963). The doctrine is frequently explained (in part) in terms of the superior competence of the agency to pass upon questions within the scope of its special responsibilities. See, e.g., *Great Northern R. Co.* v. *Merchants Elevator Co.*, 259 U.S. 285 (1922); *Far East Conference* v. *United States*, 324 U.S. 570 (1952); 3 Davis, Administrative Law 1–55 (1958); Latta, *Primary Jurisdiction in the Regulated Industries and the Antitrust Laws*, 30 U. Cin. L. Rev. 261 (1961).

jurisdiction and responsibilities for the prevention of unfair or deceptive acts and practices in commerce.

III. CIGARETTE ADVERTISING

A. The significance of cigarettes in the American economy

Before commencing the analysis (in subparts B, C, and D, infra) of the magnitude, content, and effects of cigarette advertising, it may be useful to examine briefly the significance of cigarettes in the American economy. This examination relies primarily upon data in part I of the report prepared by the Bureau of Economics for this proceeding, entitled "A Report on Cigarette Advertising and Output" (Ex. C; hereinafter cited as Bureau report). Part I of that report contains a considerably more detailed statement relating to the significance of cigarettes in the American economy.

1. Relative importance of cigarettes in the American economy: In 1963, consumer expenditures for cigarettes totaled $7.1 billion and constituted approximately 1.9 percent of total personal consumption expenditures.[36] These expenditures included approximately $3 billion in Federal and State cigarette taxes. During fiscal year 1963, Federal and State cigarette taxes equaled $3.2 billion and constituted 2.8 percent of total Federal and State tax collections (exclusive of employment taxes). (Bureau Rept. 12.)

Department of Agriculture data indicate that during 1963, tobacco cash receipts amounted to $1.3 billion and accounted for 3.5 percent of the cash receipts of farmers from all farm commodities. (Annual Report on Tobacco Statistics, 1963, p. 21.) Latest census of agriculture data indicate that during 1959 more than 70 percent of tobacco production was accounted for by 190,000 commercial tobacco farms. These farms represented 7.9 percent of all commercial farms. Tobacco was also produced by commercial farms for which it represented a secondary source of revenue and by noncommercial farms, that is, farms with value of sales amounting to less than $2,500. During 1959, a total of 417,000 farms produced some tobacco. These farms constituted 11.2 percent of the 3.7 million commercial and noncommercial farms in the United States as of 1959. (Bureau Rept. 15.)

During 1963, a total of 16 States had cash receipts from tobacco in excess of $3 million; in only 7 States, however, did tobacco receipts in 1963 exceed 10 percent of total cash receipts from all farm commodities. The leading four States in both total tobacco production and relative dependence upon tobacco were North Carolina, Kentucky, South Carolina, and Virginia. For these States, receipts from tobacco respectively represented 46.4 percent, 39.6 percent, 24.9 percent and 18.8 percent of total cash receipts. In all four States, cigarette-type tobaccos are the principal tobacco crop. The combined total for the tobacco cash receipts accounted for by the four States equaled $971 million during 1963 and represented 77.6 percent of the $1.3 billion total for U.S. tobacco cash receipts. (Annual Report on Tobacco Statistics, 1963, p. 21.)

Data on the relative importance of tobacco products manufacturing are available in the 1962 Annual Survey of Manufactures. These data indicate that value added by manufacture at tobacco products manufacturing establishments constituted 0.9 percent of total value added by manufacture. Of total value added at tobacco products manufacturing establishments, 76 percent was accounted for by activities at cigarette manufacturing establishments; 37,000 persons were employed at cigarette manufacturing establishments during 1962, which represented 0.2 percent of total employment at all manufacturing establishments.

The location of cigarette manufacturing is indicated by data from the 1958 Census of Manufactures. These data indicate that three States, North Carolina, Virginia, and Kentucky, accounted for 99.8 percent of value added by manufacture at cigarette manufacturing establishments during 1958. Of total value added at cigarette manufacturing establishments, North Carolina accounted for 57.1 percent, Virginia for 22.4 percent, and Kentucky for 20.3 percent. (Bureau Rept. 20–21.)

Census data also indicate that wholesale establishments primarily engaged in the assembly of leaf tobacco or in the distribution of tobacco products during 1958 employed 35.1 thousand employees or 1.3 percent of the employees of all wholesale trade establishments. No such data are available for the retail or service trades because the bulk of tobacco products are sold by establishments not primarily engaged in the sale of tobacco products. For example, it is estimated by trade sources that food stores and drug stores account for approximately half of cigarette sales. It is further estimated that tobacco products accounted for approximately 4 percent of food store sales and 8 percent of drug store sales. (Id., at 22.)

Census data are available from the 1958 Census of Business for two kinds of retail businesses which deal primarily in tobacco products, "cigar stores and stands" and "merchandise vending machine operators dealing primarily in tobacco products." Data for 1958 indicate that sales by establishments in these trades amounted to $543.9 million, or 0.3 percent of all retail sales. (Ibid.)

Data on the relative importance to various media of cigarette advertising indicate that during 1962 the six leading cigarette manufacturers accounted for an estimated 10.3 percent of network television advertising expenditures, 3.8 percent of expenditures for spot television by national advertisers, 3.2 percent of national advertising in general magazines, and 2.4 percent of national advertising in newspapers (including Sunday supplements). (Id., at 28.)

2. The current status of cigarette consumption and advertising: In physical terms, total domestic consumption of cigarettes during 1963 equaled 509.6 billion units. Calculated on a per capita basis for persons 18 years of age and older, domestic consumption during 1963 equaled 4,345 cigarettes per year. (Annual Report on Tobacco Statistics, 1963, pp. 48, 52.)

As shown in table 1, the leading six cigarette manufacturers accounted for more than 99 percent of total cigarette production for domestic consumption during 1963. The balance, equal to less than 0.5 percent, was accounted for by three companies—the United States Tobacco Co., Larus & Bro., and Stephano Bros.

TABLE 1.—*Cigarette market shares of leading 6 companies, 1963*

Company	Output for domestic consumption (billions of cigarettes)	Percent of total
All companies, total	509.0	100.0
R. J. Reynolds	174.4	34.3
American Tobacco	126.2	24.8
P. Lorillard Co	55.7	10.9
Brown & Williamson	53.4	10.5
Liggett & Myers	49.4	9.7
Philip Morris	48.1	9.4
All others	1.8	.4

Source: Printers' Ink, Feb. 14, 1964, p. 27.

Although more than 40 brands of cigarettes were marketed during 1963, approximately 80 percent of domestic consumption was accounted for by the 10 leading brands, more than 95 percent by the 20 leading brands, and more than 99 percent by the 30 leading brands. Table 2 presents domestic market share data for each of the 30 leading brands of 1963. In the case of brands, such as Chesterfield, which market more than one type of cigarette under a single brand name, separate totals are shown for each type of cigarette. Different rankings would of course result if combined totals were shown for such brands. For example, on a combined basis Chesterfield would have ranked 9th in 1963; shown separately, Chesterfield Kings ranked 12th in 1963 and Chesterfield Regulars ranked 16th.

[36] U.S. Department of Agriculture, "Annual Report on Tobacco Statistics, 1963," April 1964, p. 52; Survey of Current Business, April 1964, p. S–1.

TABLE 2.—*Domestic market shares during 1963 for the 30 leading cigarette brands*

Brand	Type [1]	Company	Rank	Percent of total
All brands, total				100.0
Pall Mall	K	American Tobacco	1	14.3
Winston	F	R. J. Reynolds	2	13.6
Camel	R	do	3	11.8
Salem	M	do	4	8.8
Kent	F	P. Lorillard	5	7.3
Lucky Strike	R	American Tobacco	6	7.1
L & M	F	Liggett & Myers	7	5.4
Marlboro	F	Philip Morris	8	5.0
Viceroy	F	Brown & Williamson	9	3.7
Kool	M	do	10	3.1
Tareyton	F	American Tobacco	11	2.5
Chesterfield	K	Liggett & Myers	12	2.1
Parliament	F	Philip Morris	13	2.0
Raleigh	F	Brown & Williamson	14	1.9
Newport	M	P. Lorillard	15	1.7
Chesterfield	R	Liggett & Myers	16	1.7
Old Gold	F	P. Lorillard	17	1.0
Belair	M	Brown & Williamson	18	.9
Philip Morris	K	Philip Morris	19	.8
Raleigh	K	Brown & Williamson	20	.7
Philip Morris	R	Philip Morris	21	.6
Tareyton	K	American Tobacco	22	.5
Alpine	M	Philip Morris	23	.5
Montclair	M	American Tobacco	24	.5
Paxton	M	Philip Morris	25	.4
Lark	F	Liggett & Myers	26	.3
Spring	M	P. Lorillard	27	.3
York	K	do	28	.2
Old Gold	K	do	29	.2
Do	R	do	30	.2
All other brands				.9

[1] R, regular; K, king size; F, filter (includes filter kings); M, menthol (includes menthol filter kings and regular-size menthol cigarettes).

Source: Bureau report, table 23, p. 40.

Available data on cigarette advertising expenditures indicate that total expenditures during 1963 exceeded $200 million. Advertising expenditure data are available from both governmental and trade sources. Unfortunately, none of the data is completely satisfactory. Internal Revenue Service data, for example, include advertising expenditures for products other than cigarettes. It is estimated, however, that such expenditures are not substantial. Trade publication data, on the other hand, do not include all media. Nevertheless, the data available are sufficient both to estimate the relative importance of cigarette advertising and to indicate current and prior magnitudes.

The most recently available Internal Revenue Service data indicate that the six leading cigarette manufacturers incurred total advertising expenditures of $236.4 million during 1960. (Bureau Rept. 3.) These expenditures amounted to 4.5 percent of the advertising expenditures of all manufacturing corporations and 2.5 percent of the advertising expenditures of all corporations.[37]

Data by media, for 1962, indicate that the six leading cigarette manufacturers spent $109 million for television advertising, $27.2 million for advertising in general magazines, $17.7 million for newspaper advertising, $19.3 million for network radio, and almost $1.7 million for outdoor advertising. Total spending for these media equaled $174.9 million. (Bureau Rept. 28) Network television expenditures equaled $81.9 million and accounted for 75 percent of the television total; network television represented the single most important medium for cigarette advertising.

Data for 1963 indicate increases in spending over 1962 by the six leading cigarette manufacturers for network and spot television, and general magazines. Totals reported are $89.3 million for network television, $36.1 million for spot television, and $31.8 million for general magazines. (Advertising Age, Apr. 6, 1964, p. 94 and Apr. 13, 1964, p. 101.) They represent increases over 1962 of 9, 32 and 17 percent, respectively.

B. Cigarette consumption and advertising expenditures, 1950–63

1. Cigarette consumption since 1950: As indicated by data in table 3, total and per capita cigarette consumption increased during each of the years of the period 1950 to 1963, with the exception of 1953 and 1954. In the case of per capita consumption there was also an insignificant decline during 1962. It should be noted that per capita consumption data are calculated for persons 18 years of age and over and are calculated on a base which includes both smokers and nonsmokers. During the period 1953–54, the decline in total consumption amounted to 25.4 billion units and equaled 6.4 percent of the 1952 total. It was not until 1957 that the 1952 total had been exceeded. The 1953 and 1954 declines in total consumption are particularly notable because yearly increases in cigarette consumption have otherwise been almost uninterrupted since 1913. (Bureau Rept. 2.)

The decline in per capita consumption during the 2-year period 1953 to 1954 equaled 8.8 percent and it was not until 1957 that the 1952 total had been exceeded. The 1953 and 1954 declines in total and per capita consumption may be characterized as substantial but short-lived reactions to the mounting evidence during the early 1950's of a linkage between cigarette smoking and lung cancer (see pt. II, supra).

TABLE 3.—*Total and per capita cigarette consumption, 1950–63*

Year	Total domestic cigarette consumption [1] (billions of cigarettes)	Cigarette consumption per capita 18 years and over [2] (number of cigarettes)
1963	509.6	4,345
1962	494.5	4,265
1961	488.1	4,266
1960	470.1	4,172
1959	453.7	4,071
1958	436.4	3,949
1957	409.4	3,751
1956	393.2	3,647
1955	382.1	3,595
1954	368.7	3,544
1953	386.8	3,702
1952	394.1	3,884
1951	379.7	3,743
1950	360.2	3,522

[1] Bureau report, table 1, p. 3.
[2] Annual Report on Tobacco Statistics, 1963, p. 52.

For the entire period 1950 to 1963, table 3 indicates that total consumption increased from 360.2 billion units in 1950 to 509.6 billion units in 1963, or by 41.1 percent. During the same period, per capita consumption, calculated for persons 18 years of age and over, increased from 3,522 cigarettes per year in 1950 to 4,345 cigarettes per year in 1963, or by 23.4 percent. The greater increase in total than per capita consumption certainly reflects the increase in total U.S. population since 1950. If no other factors had been at work, however, per capita consumption might have remained constant instead of increasing by 23.4 percent.

On the basis of available data on smoking patterns, it would appear that both the increase in per capita consumption and the relatively greater increase in total consumption particularly reflect the effect of increases in the proportion of smokers to nonsmokers in younger age groups, especially among females. Available data on smoking patterns of the U.S. population are summarized in the report of the Surgeon General's Advisory Committee on Smoking and Health:

"As far as is known from actual data, few children smoke before the age of 12, probably less than 5 percent of the boys and less than 1 percent of the girls. From age 12 on, however, there is a fairly regular increase in the prevalence of smoking. At the 12th-grade level, between 40 to 55 pervent of children have been found to be smokers. By age 25, estimates of smoking prevalence run as high as 60 percent of men and 36 percent of women. There is a further increase up to 35 and 40 years after which a drop is observed. In the 65 and over age group, prevalence of smoking is only approximately 20 percent among men and 4 percent among women.

"These distributions are based on cross-sectional rather than longitudinal data and may be subject to considerable change over the years as each generation of smokers carries its own smoking pattern into higher age brackets. It is also conceivable that increased public attention to possible hazards of smoking within the last few years led to some decrease in the number of smokers, a decrease not evenly distributed among the several age groups. Since these statistics were collected several years ago, they may not reflect current age distributions. More recent but limited data suggests that there has been an increment in smoking prevalence at all age levels since the early 1950's.

"Fewer women smoke than men and their smoking is almost entirely restricted to cigarettes. However, the proportion of women smokers has increased faster than that of men smokers in recent years." [ACR 362–63.]

One of the studies cited by the Surgeon General's Report was conducted by the Census Bureau for the National Cancer Institute of the U.S. Public Health Service. (Haenszell, Shimkin, and Miller, "Tobacco Smoking Patterns in the United States," Public Health Monograph No. 45 (1956).) It contains a more detailed analysis of smoking patterns and is based upon data obtained from a sample survey conducted during February 1955 as part of the Current Population Survey. The Public Health Service report indicates that: "The trend to regular smoking at earlier ages has been most pronounced for females. For example, the age by which 20 percent of the women become regular smokers has dropped from 21.3 years among those born between 1910 and 1920 to 19 and 18.5 years among the groups born between 1920 and 1930 and in 1930 or later. Among men, the corresponding figure has remained stable at about 15.6 years." (Id., at 17.)

The Public Health Service report also confirms the existence of a "rising trend in the proportion of regular smokers in successive cohorts" (id., at 16), that is, successively younger age groups. Table 4 reproduces data from the Public Health Service report. The table provides estimates of the number of persons in each age group who will at any time during their lives become cigarette smokers, indicated in the table as "future lifetime (maximum)." For example, data for men indicate that for the group 65 and over at the time of the survey, the future lifetime percentage of persons becoming regular cigarette smokers was 33.7 percent, but for men 25 to 34 at the time of the survey the equivalent percentage was 71.3 percent. For women, the future lifetime estimate is equal to 4.6 percent for those 65 and over at the time of the survey but 47.8 percent for women 25 to 34 years of age at the time of the survey. These rates make no allowance for persons who discontinue smoking after becoming regular smokers. The report notes, however, that "discontinuance of smoking is not an important factor before age 35." (Id. at 17.)

Data in table 4 also provide detailed information as to the age at which persons begin regular cigarette smoking. It indicates, for example, that among males 25 to 34 as of February 1955, 61.4 percent had started regular smoking prior to age 21. Among females 25 to 34 at the time of the survey, 28.9 percent had started smoking prior to age 21. For females 18 to 24 at the time of the survey, 32.6 percent had begun regular smoking prior to the age of 21. These data indicate that the prevalence of smoking by persons under 21 years of age is of sufficient magnitude to warrant consideration of the effects of advertising on such persons.

2. Changes in type and brand preference: Table 5 provides data for the period 1952 to 1963 on cigarette preference by type. It indictates that "there has been a continuous decline since 1952 in the proportion of cigarette output accounted for by regular cigarettes and an uninterrupted increase in the proportion of total output accounted for by filter and menthol cigarettes." (Bureau Rept. 34.) Data in table 5 are also presented in charts 1 and 2 [not printed in RECORD].

[37] Id. at 7; U.S. Treasury Department, Internal Revenue Service, "Statistics of Income, 1960–1, Corporation Income Tax Returns," Table 2.

TABLE 4.—*Cumulative percentage of persons becoming regular cigarette smokers prior to age specified, by age and sex, United States, 1955*

MEN

Age started smoking	Age at time of survey (years)					
	18-24 [1]	25-34 [1]	35-44	45-54	55-64	65 and over
10	0.9	0.5	0.7	0.9	0.9	0.7
11	1.4	.9	1.3	1.8	1.7	1.1
12	1.5	1.0	1.7	1.9	2.0	1.3
13	2.4	2.1	2.9	3.2	3.0	2.1
14	3.5	3.3	3.9	3.9	3.6	2.8
15	6.3	6.5	7.1	6.6	6.2	4.3
16	11.6	12.4	13.0	11.7	10.9	7.5
17	23.3	24.7	23.8	20.2	17.3	10.7
18	33.5	35.3	31.5	27.3	21.6	13.0
19	44.3	50.0	45.7	39.5	31.8	16.6
20	48.9	55.2	49.8	42.8	34.0	17.3
21	52.6	61.4	56.9	51.2	41.2	20.9
22	54.2	64.1	60.6	55.2	44.3	22.2
23	55.3	65.5	62.5	56.7	45.7	22.9
24	55.8	66.4	63.4	57.7	46.2	23.2
25	------	67.0	64.0	58.2	46.9	23.4
26	------	67.4	65.3	60.1	48.7	25.1
27	------	67.6	65.8	60.4	49.1	25.6
28	------	67.7	66.0	60.6	49.5	25.7
29	------	67.9	66.4	61.1	50.0	26.0
30	------	67.9	66.4	61.3	50.2	26.1
31	------	68.2	66.9	62.2	51.2	27.5
32	------	68.2	67.0	62.3	51.2	27.8
33	------	68.4	67.1	62.5	51.2	28.0
34	------	68.4	67.2	62.6	51.5	28.0
35	------	68.4	67.3	62.7	51.6	28.1
Future lifetime (maximum)	------	71.3	70.7	66.3	56.5	33.7

WOMEN

10	0.1	0.1	------	------	0.1	------
11	.2	.2	0.1	0.1	.2	------
12	.2	.2	.1	.1	.2	------
13	.3	.4	.2	.1	.2	------
14	.9	.6	.3	.2	.2	0.1
15	2.1	1.5	.6	.3	.3	.1
16	4.8	3.2	1.7	.6	.6	.2
17	9.8	7.0	4.2	1.3	.7	.4
18	15.9	11.9	7.0	2.0	.8	.4
19	24.3	20.2	12.3	4.1	1.2	.6
20	28.9	23.9	14.5	4.7	1.4	.7
21	32.6	28.9	19.6	7.5	2.1	.9
22	34.7	31.9	22.0	8.7	2.3	1.0
23	35.8	34.0	23.4	9.7	2.4	1.0
24	36.2	35.3	24.8	10.3	2.6	1.1
25	------	36.2	25.6	10.9	2.8	1.1
26	------	37.6	28.0	13.4	3.4	1.4
27	------	38.0	28.9	13.7	3.6	1.4
28	------	38.7	29.6	14.1	3.7	1.4
29	------	39.3	30.5	14.7	4.0	1.4
30	------	39.8	30.8	14.9	4.1	1.4
31	------	40.3	32.6	17.0	5.5	1.6
32	------	40.7	32.7	17.3	5.6	1.7
33	------	40.9	33.2	17.8	5.9	1.7
34	------	41.2	33.4	18.2	5.9	1.7
35	------	42.0	33.8	18.5	6.1	1.7
Future lifetime (maximum)	------	47.8	40.5	26.7	12.6	4.6

[1] For ages under 35, adjusted by usual actuarial procedures to take account of population not exposed to risk for entire age span covered.

Source: William Haenszell, Michael B. Shimkin, and Herman P. Miller, "Tobacco Smoking Patterns in the United States," Public Health Monograph No. 45, Government Printing Office, Washington, D.C., 1956, p. 56.

TABLE 5.—*Cigarette output by type of cigarette, 1952–63*

[In billions of cigarettes]

Year [1]	All types, total	Regular cigarettes	King-size [2] cigarettes	Filter [2] cigarettes	Menthol cigarettes [3]
1963	509.0	109.3	97.7	218.9	83.1
1962	494.5	118.8	97.0	205.4	73.4
1961	488.1	127.4	98.3	193.8	68.6
1960	475.4	130.3	91.9	192.4	60.9
1959	455.8	135.1	87.0	182.7	51.0
1958	436.1	142.8	87.6	168.6	37.1
1957	409.0	155.0	84.7	142.8	26.6
1956	391.0	172.6	92.7	109.5	16.3
1955	380.0	193.6	99.0	74.7	12.7
1954	369.0	216.2	103.3	37.4	12.1
1953	388.0	259.8	103.9	12.4	11.5
1952	395.8	307.2	71.9	5.2	11.5

PERCENT DISTRIBUTION

1963	100.0	21.5	19.2	43.0	16.3
1962	100.0	24.0	19.6	41.5	14.8
1961	100.0	26.1	20.1	39.7	14.1
1960	100.0	27.4	19.3	40.5	12.8
1959	100.0	29.6	19.1	40.1	11.2
1958	100.0	32.7	20.1	38.7	8.5
1957	100.0	37.9	20.7	34.9	6.5
1956	100.0	44.1	23.7	28.0	4.2
1955	100.0	50.9	26.1	19.7	3.3
1954	100.0	58.6	28.1	10.1	3.3
1953	100.0	67.0	26.8	3.2	3.0
1952	100.0	77.6	18.2	1.3	2.9

[1] For years prior to 1961, totals consist of tax-paid removals for domestic consumption as reported to the Internal Revenue Service plus additions to inventory and minus reductions in inventory. These figures do not include tax-free removals or exports. The pre-1961 totals, therefore, will differ slightly from those shown in table 1. For 1961, 1962, and 1963, totals are equal to the Internal Revenue Service series on tax-paid withdrawals for domestic consumption and are approximately equivalent to domestic sales.

[2] King-size, filter cigarettes are classified as filter cigarettes.

[3] This classification includes all cigarettes made with menthol. In 1963, more than 95 percent of menthol output consisted of menthol-filter-kings. The balance consisted of regular-size menthol cigarettes.

Sources: Printers' Ink, Dec. 22, 1961, pp. 24–25; Dec. 27, 1957, p. 23; Dec. 23, 1960, pp. 28–29; Dec. 28, 1956, p. 26; Dec. 25, 1959, p. 21; Dec. 30, 1955, p. 13; Dec. 26, 1958, p. 23; and Jan. 15, 1954; p. 36.
Bureau Report, table 20, p. 35.

In 1952, the market shares of regular, filter, and menthol cigarettes were 77.6, 1.3, and 2.9 percent, respectively.[38] By 1963, the market shares for regular, filter, and menthol cigarettes were 21.5, 43.0, and 16.3 percent, respectively. The combined filter and menthol cigarette share, which had been 4.2 percent in 1952, had increased to 59.3 percent by 1963. Inasmuch as more than 95 percent of menthol output in 1963 consisted of menthol-filter-kings and no menthol-filter cigarettes were manufactured in 1952, it may also be said that the market share of filter cigarettes had increased from 1.3 percent in 1952 to about 59 percent in 1963.

In absolute terms, the data also show a continuous decline in the output of regular cigarettes and substantial increases in the output of filter and menthol cigarettes. Regular cigarette output equaled 307.2 billion units in 1952. By 1963, this total had declined to 109.3 billion units, or by 64.4 percent. Greater percentage changes, however, occurred in the output totals for filter and menthol cigarettes. Filter output in 1952 equaled 5.2 billion units; by 1963, the filter total had reached 218.9 billion units. This change represented an increase of more than 4,000 percent. Large percentage increases in filter output were recorded during each of the years of the period 1953 to 1958; smaller gains were achieved thereafter.

Although menthol cigarette output recorded a substantial increase during the period 1952 to 1963, it was not until 1956, with the introduction of light-menthol, filter-king cigarettes such as Salem, that menthol cigarettes achieved significant gains. Further gains also occurred in years subsequent to 1956. In 1952, menthol cigarette output equaled 11.5 billion units. The bulk of this output, moreover, consisted of heavy-menthol, nonfilter Kool cigarettes. By 1963 menthol cigarette output equaled 83.1 billion units, and more than 80 percent of this total consisted of light-menthol brands, such as Salem, Belair, Alpine, and Newport, which had been introduced subsequent to 1955.

Changes in individual brand preference have paralleled the increased popularity of filter and menthol-filter cigarettes. Tables 6 and 7 provide market share and rank data for the 30 leading cigarette brands of 1963 for the entire period 1950 to 1963. As shown in tables 6 and 7, all of the six leading brands of cigarettes in 1950, except Pall Mall, were regular cigarettes. Pall Mall, a king-size cigarette, ranked fifth in 1950 and accounted for 6.1 percent of the total output. By 1963, Pall Mall ranked first and only two of the leading six cigarette brands were reguar cigarettes. The latter, Camel and Lucky Strike, ranked third and sixth, respectively. Two filter brands, Winston and Kent, ranked second and fifth, respectively, and a menthol-filter-king cigarette, Salem, ranked fourth. By 1963, therefore, leadership among cigarette brands was no longer held by regular cigarettes.

[38] Note that in this report, as in the Bureau Report, the terms "output," "sales," "domestic consumption," and "consumption" are used interchangeably. All series, however, exclude exports or production for exports. This usage has been necessary because of limitations as to data available. Differences in the series are minor and do not significantly affect data on relative shares or trends.

TABLE 6.—*Percentage of total output during each of the years 1950 to 1963 for the 30 leading cigarette brands of 1963*

Brand	Type [1]	Company	1963	1962	1961	1960	1959	1958	1957	1956	1955	1954	1953	1952	1951	1950
All brands, total	------	------	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Pall Mall	K	American Tobacco	14.3	14.6	14.5	14.0	13.7	13.3	13.3	14.3	14.6	14.1	12.1	10.7	8.1	6.1
Winston	F	R. J. Reynolds	13.6	12.9	12.0	11.0	10.1	9.7	9.8	8.7	5.8	2.0	------	------	------	------
Camel	R	do	11.8	12.9	13.5	13.9	14.3	14.6	15.7	17.8	19.6	22.0	25.3	26.5	26.6	26.3
Salem	M	do	8.8	8.9	8.4	7.4	6.2	4.4	2.9	1.0	------	------	------	------	------	------
Kent	F	P. Lorillard	7.3	7.4	7.2	8.0	8.2	8.3	3.7	.9	.7	1.1	.8	.1	------	------
Lucky Strike	R	American Tobacco	7.1	8.0	8.4	8.9	9.6	10.8	12.7	14.2	15.1	15.9	16.8	18.6	20.4	22.9
L & M	F	Liggett & Myers	5.4	5.3	5.3	5.2	5.5	6.0	6.4	5.2	3.3	1.8	.3	------	------	------
Marlboro	F	Philip Morris	5.0	5.0	4.9	4.6	4.5	4.7	4.8	3.7	1.7	------	------	------	------	------
Viceroy	F	Brown & Williamson	3.7	3.6	3.7	4.5	4.7	5.1	5.9	6.0	5.3	4.0	1.5	.7	.4	.3
Kool	M	do	3.1	3.0	3.9	3.1	3.0	3.1	3.1	3.0	3.3	3.3	2.9	2.9	2.5	2.3
Tareyton	F	American Tobacco	2.5	2.3	2.2	2.0	1.7	.9	.8	.9	.9	.4	------	------	------	------
Chesterfield	K	Liggett & Myers	2.1	2.2	2.5	2.6	2.5	2.5	2.5	3.3	3.7	3.7	3.5	2.1	------	------
Parliament	F	Philip Morris	2.0	2.0	1.9	1.9	2.0	1.6	.5	.5	.5	.6	.6	.4	.2	.3
Raleigh	F	Brown & Williamson	1.9	1.6	1.4	1.2	1.1	------	------	------	------	------	------	------	------	------
Newport	M	P. Lorillard	1.7	1.7	1.5	1.1	1.1	.6	.2	------	------	------	------	------	------	------
Chesterfield	R	Liggett & Myers	1.7	2.0	2.7	3.1	3.6	4.3	5.3	6.3	8.6	10.7	12.8	14.8	17.1	18.1

See footnote at end of table.

TABLE 6.—*Percentage of total output during each of the years 1950 to 1963 for the 30 leading cigarette brands of 1963*—Continued

Brand	Type [1]	Company	1963	1962	1961	1960	1959	1958	1957	1956	1955	1954	1953	1952	1951	1950
Old Gold	F	P. Lorillard	1.0	1.0	1.0	1.1	1.1	1.3	1.6	1.5	1.3	.1				
Belair	M	Brown & Williamson	.9	.5	.1	.2										
Philip Morris	K	Philip Morris	.8	.8	.8	.8	.8	1.0	1.2	1.4	1.8	2.2	2.3			
Raleigh	K	Brown & Williamson	.7	.7	.7	.7	.7	1.7	1.5	1.8	1.9	2.0	1.5			
Philip Morris	R	Philip Morris	.6	.8	.9	1.2	1.4	1.8	2.4	3.5	4.3	5.7	6.6	9.1	10.2	10.7
Tareyton	K	American Tobacco	.5	.5	.5	.6	.7	.8	1.0	1.4	2.0	3.0	3.4	3.2	2.4	1.8
Alpine	M	Philip Morris	.5	.5	.5	.5	.2									
Montclair	M	American Tobacco	.5	.1												
Paxton	M	Philip Morris	.4													
Lark	F	Liggett & Myers	.3													
Spring	M	P. Lorillard	.3	.2	.2	.1	.2									
York	K	do	.2	.2	.2											
Old Gold	K	do	.2	.2	.3	.3	.3	.4	.5	.8	1.1	1.2	1.0			
Do	R	do	.2	.2	.4	.3	.7	1.2	1.7	2.3	3.3	4.1	5.1	5.9	5.3	5.1
All others			.9	.9	1.4	1.7	2.1	1.9	2.5	1.5	1.2	2.1	3.5	5.0	6.8	6.1

[1] R, regular; K, king size; F, filter; and M, menthol.

Sources: Printers' Ink, Feb. 14, 1964, pp. 26-27; Dec. 22, 1961, pp. 24-25; Dec. 23, 1960, pp. 28-29; Dec. 25, 1959, p. 21; Dec. 26, 1958, p. 23; Dec. 27, 1957, p. 23; Dec. 28, 1956, p. 26; Dec. 30, 1955, p. 13; Jan. 15, 1954, p. 36; and Oct. 23, 1953, p. 440. Bureau Report, table 23, p. 40.

TABLE 7.—*Rank of the 30 leading cigarette brands of 1963 during each of the years 1950–63*

Brand	Type [1]	Company	1963	1962	1961	1960	1959	1958	1957	1956	1955	1954	1953	1952	1951	1950
Pall Mall	K	American Tobacco	1	1	1	1	2	2	2	2	3	3	4	4	5	5
Winston	F	R. J. Reynolds	2	2	3	3	3	4	4	4	5	12				
Camel	R	do	3	2	2	2	1	1	1	1	1	1	1	1	1	1
Salem	M	do	4	4	4	6	6	9	11	17						
Kent	F	P. Lorillard	5	6	6	5	5	5	9	19	19	16	15	22		
Lucky Strike	R	American Tobacco	6	5	4	4	4	3	3	3	2	2	2	2	2	2
L & M	F	Liggett & Myers	7	7	7	7	7	6	5	7	11	14	21			
Marlboro	F	Philip Morris	8	8	8	8	9	8	8	8	15					
Viceroy	F	Brown & Williamson	9	9	9	9	8	7	6	6	6	7	12	12	13	14
Kool	M	do	10	10	10	10	11	11	10	11	9	9	9	8	7	7
Tareyton	F	American Tobacco	11	11	13	13	14	19	20	18	18	19				
Chesterfield	K	Liggett & Myers	12	12	12	12	12	12	12	10	8	8	7	9		
Parliament	F	Philip Morris	13	13	14	14	13	15	22	22	21	18	17	13	14	16
Raleigh	F	Brown & Williamson	14	16	16	15	17									
Newport	M	P. Lorillard	15	15	15	17	17	22	23							
Chesterfield	R	Liggett & Myers	15	13	11	11	10	10	7	5	4	4	3	3	3	3
Old Gold	F	P. Lorillard	17	17	17	18	16	16	15	14	16	23				
Belair	M	Brown & Williamson	18	23	27	27										
Philip Morris	K	Philip Morris	19	18	19	19	19	18	17	15	14	11	10			
Raleigh	K	Brown & Williamson	20	20	20	20	20	14	16	13	13	13	11			
Philip Morris	R	Philip Morris	21	19	18	16	15	13	13	9	7	5	5	5	4	4
Tareyton	K	American Tobacco	22	21	21	21	22	20	18	16	12	10	8	7	8	9
Alpine	M	Philip Morris	22	21	22	22	27									
Montclair	M	American Tobacco	23	34												
Paxton	M	Philip Morris	25													
Lark	F	Liggett & Myers	26													
Spring	M	P. Lorillard	26	27	26	35	27									
York	K	do	28	24	35											
Old Gold	K	do	28	24	24	25	26	23	21	20	17	15	13			
Do	R	do	28	24	23	24	21	17	14	12	10	6	6	6	6	6

[1] R, regular; K, king size; F, filter; and M, menthol.

Sources: Printers' Ink, Feb. 14, 1964, pp. 26-27; Dec. 22, 1961, pp. 24-25; Dec. 23, 1960, pp. 28-29; Dec. 25, 1959, p. 21; Dec. 26, 1958, p. 23; Dec. 27, 1957, p. 23; Dec. 28, 1956, p. 26; Dec. 30, 1955, p. 13; Jan. 15, 1954, p. 36; and Oct. 23, 1953, p. 440. Bureau report, table 24, p. 40.

TABLE 8.—*Relative importance during 1963 of filter and menthol-filter brands introduced after Jan. 1, 1952*

Brand	Domestic consumption during 1963 (billions of cigarettes)	Percent distribution
All brands, total	509.6	100.0
Filter brands introduced after Jan. 1, 1952, total	187.7	36.8
Winston	69.4	13.6
Kent	37.1	7.3
L&M	27.2	5.3
Marlboro [1]	25.4	5.0
Dual filter Tareyton	12.5	2.5
Raleigh (filter only)	9.4	1.8
Old Gold (filter only)	5.1	1.0
Lark	1.6	0.3
Menthol-filter brands introduced after Jan. 1, 1952, total	79.5	15.8
Salem	44.8	8.8
Kool (filter only)	13.0	2.6
Newport	9.0	1.8
Belair	4.8	0.9
Alpine	2.3	.5
Montclair	2.3	.5
Paxton	2.0	.4
Spring	1.3	.3
All other brands	242.4	47.4

[1] Included because Marlboro was in effect reintroduced after 1952.

Source: Printers' Ink, Feb. 14, 1964.

Also of significance is the fact that, by 1963, the cigarette market was increasingly dominated by filter and menthol-filter brands that had been introduced since 1952. As indicated by table 8, such brands accounted for more than half of total consumption in 1963. These data indicate the active role cigarette manufacturers have played in marketing filter and menthol-filter cigarettes; they tend to negate any inference that a spontaneous shift by consumers to filter and menthol-filter brands already on the market took place.

The dramatic character of the changes in brand preference since 1950 may be more fully appreciated if it is recalled that during the years prior to 1950, three brands of regular cigarettes, Lucky Strike, Camel, and Chesterfield, dominated the cigarette market. In 1925, 1935, and 1950 these brands had accounted for 82, 85, and 67.9 percent, respectively, of total cigarette output. By 1963, however, the share of output accounted for by the three brands had declined to 20.6 percent and two of the three brands no longer ranked among the top three. (Bureau rept. 35.)

3. Cigarette advertising expenditures: As noted earlier, advertising expenditure data for the leading six cigarette manufacturers are available from both trade sources and the Internal Revenue Service. As shown in table 9, Internal Revenue Service data indicate that advertising expenditures increased from $84.8 million in 1950 to $236.4 million in 1960, or by 178.7 percent. Cumulative totals of Internal Revenue Service data for the period 1950 to 1960 indicate that the six leading cigarette manufacturers incurred advertising expenditures of approximately $1.75 billion.

Trade data in table 9 indicate that estimated expenditures for television, newspapers (including Sunday supplements), and general magazines increased from $49.1 million in 1952 to $153.9 million in 1962, or by 213.2 percent. Cumulative totals for the period 1952 to 1962 indicate that the six leading cigarette manufacturers spent an estimated $1.2 billion in the included media. These totals do not include spot television expenditures for the years 1952 to 1955 and therefore tend to overstate the increase in the three media total for the period 1952 to 1962. It is estimated, however, that spot television expenditures were not of major significance to the three media total for 1952. Media not included for all of the period 1952 to 1962 consist principally of radio, outdoor advertising, farm and business publications, direct mail promotions, point-of-sale advertising, premiums, and sample promotions. It is estimated, however, that the data shown from trade sources in table 9 account for more than half of total advertising expenditures. It should be pointed out that the trade data shown consist of estimates based upon gross time and space charges, computed on a one-time basis; that is, the figures do not reflect deductions for cash or frequency

discounts. In addition, the figures do not include an allowance for preparation costs on print media or production costs on broadcast media. It is believed, however, that the trade data in table 9 are reasonable approximations of actual expenditures in the included media.

TABLE 9.—*Advertising expenditures of the 6 leading cigarette manufacturers, 1950–62*

[In thousands of dollars]

Year	Advertising expenditures in selected media of 6 leading cigarette manufacturers [1]	Advertising expenditures of 6 leading tobacco products manufacturing corporations (Internal Revenue Service data) [2]
1963	[3]	[3]
1962	153,872	[3]
1961	150,630	[3]
1960	153,484	236,414
1959	152,881	232,634
1958	137,276	217,883
1957	119,946	203,256
1956	104,493	177,197
1955	71,515	148,189
1954	66,488	131,666
1953	60,076	121,455
1952	49,136	[3]
1951	[3]	96,987
1950	[3]	84,814

[1] From table 10 below. Includes advertising expenditures for network and spot television, general magazines and newspapers (including Sunday sections). Spot television not included for the period 1952–55.
[2] Bureau report, p. 3.
[3] Not available.

Historical data from trade sources are available which indicate trends in media use during the period 1952–63. Table 10 provides separate data on the advertising expenditures of the six leading cigarette manufacturers in television, general magazines, and newspapers (including Sunday supplements). It indicates that between 1952 and 1962, expenditures for network television, general magazines, and newspapers increased respectively by 256, 129, and 45 percent. It also indicates that during 1962, combined expenditures for network and spot television accounted for 71 percent of the three media total. By 1962, network television advertising expenditures were estimated to equal $81.9 million, an amount approximately three times both spot television or general magazine expenditures and more than four times expenditures for newspaper advertising.

As described in the Bureau of Economics report—

"Data are also available for other media but not for all of the years of the period 1952–62. As described in footnote 1 of table 10, published estimates indicate that about $19 million was spent by the six cigarette manufacturers for network radio during 1962, and $1.7 million for outdoor advertising. If these totals are added to the 1962 total of $153.9 million appearing in table 10, the computed total for the advertising expenditures of the six companies would be $174.9 million. This total, of course, does not include such media as spot radio, direct mail, point of sale advertising aids, premiums, and sampling. It is estimated, however, that the computed total of $174.9 million accounts for 65 to 75 percent of total advertising expenditures by the six companies." (Bureau rept. 29.)

Comparisons between cigarette consumption and cigarette advertising expenditures indicate that during recent years increases in advertising expenditures have considerably exceeded increases in cigarette consumption. Comparisons for the period 1950–60 indicate that total cigarette consumption increased by 30.5 percent and that per capita consumption of persons 18 years of age and older increased by 18.5 percent, but that advertising expenditures reported to the Internal Revenue Service by the six leading cigarette manufacturers increased by 178.7 percent. Similarly, a comparison of cigarette consumption data and advertising expenditure data from trade sources indicates that there was a 25.8-percent increase between 1956 and 1962 in total domestic cigarette consumption, a 16.9-percent increase in per capita cigarette consumption, but a 47.3-percent increase in the advertising expenditures of the six leading cigarette manufacturers for television, general magazines, and newspapers.

TABLE 10.—*Advertising expenditures by leading 6 cigarette manufacturers in selected media, 1952–63*

[All figures are in thousands of dollars. Table includes data for R. J. Reynolds, American Tobacco Co., P. Lorillard, Brown & Williamson, Philip Morris, and Liggett & Myers]

Year	Selected media total [1]	Television total	Network TV	Spot TV	General magazines	Newspapers (including Sunday sections)
1963	[2]	125,322	89,253	36,069	31,834	[2]
1962	153,872	109,105	81,947	27,158	27,029	17,738
1961	150,630	104,300	77,750	26,550	25,645	20,685
1960	153,484	100,260	68,119	32,141	[3] 23,881	29,343
1959	152,881	96,459	67,973	24,486	[3] 21,619	34,803
1958	137,276	88,592	61,078	27,514	20,872	27,812
1957	119,946	78,599	47,337	31,262	18,032	23,315
1956	104,493	66,864	38,497	28,367	14,965	22,664
1955	71,515	[4] 40,240	40,240	[2]	15,349	15,926
1954	66,488	[4] 39,885	39,885	[2]	14,125	12,478
1953	60,076	[4] 32,554	32,554	[2]	12,235	15,287
1952	49,136	[4] 25,083	25,083	[2]	11,810	12,243

[1] Expenditure data in this table consists of gross time and space costs computed at one-time rates. There is no deduction for cash or frequency discounts. These totals do not include preparation costs for print media and talent and production costs for broadcast media (Printers' Ink, Sept. 6, 1963, p. 21).

Data for network radio and outdoor media are also available, but are not available for all of the years of the period 1952–62 and for this reason have not been included in the main table. Data for network radio are available for the years 1952–55, and appear below. An estimate for network radio for 1962 was published in Printers' Ink, Sept. 6, 1963, and is also included below. Data for outdoor media for 1958, 1961, and 1962 are also shown below:

[In thousands of dollars]

Year	Network radio	Outdoor advertising
1962	19,300	1,699
1961	[a]	1,328
1958	[a]	2,879
1955	9,743	[a]
1954	10,779	[a]
1953	14,960	[a]
1952	15,522	[a]

[a] Not available.
[2] Not available.
[3] Data for Brown & Williamson's expenditures in general magazines were not available in published sources but have been estimated and included in the 1959 and 1960 totals.
[4] Does not include expenditures for spot television.

Sources: Printers' Ink, Oct. 21, 1955, p. 76 ff., Oct. 31, 1958, p. 59 ff., Sept. 1, 1961, p. 368 ff., Sept. 6, 1963, p. 21 ff.; Bureau report, table 18, p. 28; Advertising Age, Apr. 6, 1964, p. 94, and Apr. 13, 1964, p. 101.

If the most striking development in cigarette consumption patterns since 1952 has been the increased popularity of filter and menthol-filter brands, equally striking has been the absolute and relative increase in advertising expenditures for filter and menthol-filter cigarettes. Table 11 presents data on advertising expenditures in selected media. It indicates that the advertising expenditure share for filter and menthol cigarettes (primarily menthol-filter) increased from 3.7 percent in 1952 to 66.1 percent in 1962. In absolute terms, expenditures in selected media increased from $2.1 million in 1952 to $96.5 million in 1962. Since more than 95 percent of menthol cigarette output in 1962 consisted of menthol-filter cigarettes and since no such cigarettes were produced in 1952, it can also be estimated that the combined advertising expenditure total for filter and menthol-filter cigarettes increased from $1.6 million in 1952 to $95.6 million in 1962 and, on a percentage share basis, from 2.8 percent in 1952 to 65.5 percent in 1962.

Between 1952 and 1962, filter and menthol cigarette consumption increased from 16.7 billion units in 1952 to 278.8 billion units in 1962, or by 261.1 billion units. About 40 percent of this increase represented a net increase in total cigarette consumption. In 1952, advertising expenditures in selected media for filter cigarettes equaled $1.6 million; by 1962, the total for filter cigarettes in selected media equaled $68.4 million. This change represents an increase of more than 4,000 percent. In 1955, expenditures for menthol cigarettes did not exceed $1 million. By 1962, spending to advertise menthol cigarettes, primarily menthol-filter cigarettes, exceeded $28 million. The change for menthol cigarettes also represents an increase of more than 4,000 percent.

It cannot be demonstrated that the intensive advertising of filter and menthol-filter cigarettes was exclusively responsible for the net increase in total cigarette consumption of about 100 billion units during the years 1952–62 and the gross increase in menthol and filter output of 262 billion units in that period, but it is highly probable that advertising contributed significantly to both increases, particularly to the increase in filter and menthol-filter consumption. It is of course true that the spending of even millions of dollars will not guarantee success for a particular brand or insure retention of a market for a given type of cigarette. The decline in recent years of most brands of regular cigarettes, and the conspicuous failure of some filter

brands, such as Hit Parade, support this view. No cigarette, however, has been able to attain significant sales success without heavy promotional expenditures. The increased share of output accounted for by filter and menthol-filter cigarettes is undoubtedly associated with the mounting evidence throughout the 1950's of the health hazards of smoking but there is considerable probability that cigarette advertising since 1952 has significantly contributed to the shift to filter and menthol-filter cigarettes.

TABLE 11.—*Cigarette advertising expenditures in selected media by type of cigarette, 1952–62*

[Dollar amounts in thousands]

Year [1]	Expenditures in selected media, total [2]	Regular cigarettes	King-size cigarettes [3]	Filter cigarettes [3]	Menthol cigarettes [4]	Percent distribution				
						Expenditures in selected media, total [2]	Regular cigarettes	King-size cigarettes [3]	Filter cigarettes [3]	Menthol cigarettes [4]
1962	$145,986	$20,154	$29,373	$68,434	$28,025	100	13.8	20.1	46.9	19.2
1961	143,256	20,736	21,166	69,110	32,244	100	14.5	14.8	48.2	22.5
1960	143,910	21,929	19,948	70,216	31,817	100	15.2	13.9	48.8	22.1
1959	147,768	21,990	19,808	77,183	28,787	100	14.9	13.4	52.2	19.5
1958	134,985	21,388	20,095	69,280	24,222	100	15.8	14.9	51.3	17.9
1957	117,686	22,780	15,464	66,097	13,345	100	19.4	13.1	56.2	11.3
1956	105,334	29,101	21,962	46,738	7,533	100	27.6	20.8	44.4	7.2
1955	76,703	28,155	21,486	26,465	597	100	36.7	28.0	34.5	.8
1954	70,457	39,041	16,746	13,796	874	100	55.4	23.8	19.6	1.2
1953	71,934	55,898	10,983	4,662	391	100	77.7	15.3	6.5	.5
1952	56,673	47,564	7,013	1,603	493	100	83.9	12.4	2.8	.9

[1] Data for 1954 to 1962: In the case of brands selling more than 1 type of cigarette under a single brand name, it was necessary to allocate expenditures on the basis of brand sales by type of cigarette. This method probably understates the actual expenditures for nonregular cigarettes.

Data for 1952 and 1953: For these years, data were not available to make such allocations. As a result, negligible amounts of expenditures for Chesterfield, Old Gold, and Philip Morris king-size cigarettes were included in the totals for regular cigarettes; also, for the same years, negligible amounts of expenditures for Tareyton filter cigarettes were included in the totals for king-size cigarettes.

[2] Included media: Data in this table include expenditures for the entire period 1952–62 for the following media: General magazines, newspapers (including Sunday sections), and network television. Expenditures for radio are not included subsequent to July 31, 1955. Outdoor advertising expenditures are not included prior to 1955. Spot television expenditures are not included prior to 1956.

Included brands: Figures in this table do not include expenditures for any brand which in all of the years 1952–62 had sales of less than 1,000,000,000 cigarettes. Also not included are expenditures for any brand which declined in sales below 1,000,000,000 units, except that expenditures are included for such brands for all years in which their sales equaled 1,000,000,000 or more and all years prior to the most recent year in which sales equaled 1,000,000,000 or more. These exclusions, however, are not considered significant because they generally amount to less than 2 percent of total output.

Basis for data: Figures consist of space and time costs computed on a single-time basis. There is no allowance for preparation costs for print media or for talent or production costs for broadcast media. There is also no deduction for frequency or cash discounts.

[3] Filter-king cigarettes are classified as filter cigarettes.

[4] All menthol cigarettes, regardless of size and regardless of whether they were made with a filter, are classified as menthol cigarettes.

Sources: Advertising Age, June 23, 1958, p. 68; July 27, 1959, p. 82; Sept. 19, 1960, p. 126; Aug. 7, 1961, p. 82; June 25, 1962, p. 30; Sept. 2, 1963, p. 38.
Bureau report, table 21, p. 37.

C. Cigarette advertising: Its audience and content

1. The audience for cigarette advertising: The precise degree to which individuals in the United States are exposed to cigarette advertising cannot be accurately estimated from available data. The variety of media used by cigarette manufacturers and the magnitude of their expenditures indicate, however, that cigarette advertising reaches virtually all Americans who can either read, or understand the spoken word. Cigarettes are advertised on both network and spot television, on radio, in magazines and newspapers, in outdoor media, and by means of many types of point-of-sale advertising aids. So pervasive is cigarette advertising that it is virtually impossible for Americans of almost any age to avoid cigarette advertising. For example, the morning radio news broadcasts are often preceded or followed by a spot announcement for a cigarette brand. Outdoor billboards, trains, and buses carry advertising visible to both children and adults on their way to work or school. Restaurants and drugstores often have advertising decals for cigarettes on entrance doors and a variety of other display material such as wall clocks and change counter mats. Many of the daytime and evening television programs are sponsored by cigarette manufacturers; and numerous magazines and newspapers read by the whole family contain cigarette advertising. Theater and athletic event programs often contain cigarette advertising.

In subpart B, supra, data were presented on advertising expenditures by media. It was indicated that during 1963 the six leading cigarette manufacturers spent approximately $89.3 million for network television advertising. These expenditures were greater than those for any other media. Appendix B of the Bureau of Economics report presents audience data for network television programs sponsored in whole or in part by cigarette manufacturing.[39] Data in appendix B indicate that substantial numbers of persons of all ages are exposed to cigarette advertising. Table 12 contains audience estimates for persons 18 years of age and older for 55 network television programs sponsored in whole or in part by cigarette manufacturers. As shown in table 12, 25 of these programs had audiences of such persons equal 15.0 million or more. The most popular program, the "Beverly Hillbillies," had an audience of this age group estimated at 3.09 million. Bureau of Census data indicate that as of November 1, 1963, the resident U.S. population 18 years of age and over equaled 120.3 million; it may be estimated, therefore, that this particular television program reached an audience equal to approximately 25 percent of all persons 18 years of age and over. It may similarly be calculated that each of the 25 programs with an audience equal to 15.0 million or more of persons 18 years of age and older exposed at least 12 percent of such persons to cigarette advertising. The totals shown in table 12 represent minimums since programs broadcast 5 days a week (Monday through Friday) have been counted as a single program. In addition, it must be emphasized, these data do not include spot television advertising. During 1963, the six leading cigarette manufacturers spent approximately $36.1 million for such advertising (Advertising Age, Apr. 13, 1964, p. 101), an amount equal to 40 percent of their expenditures for network television advertising.

[39] These data were compiled from the publication United States Television Audience, November 1963. The latter, a publication of the American Research Bureau, a subsidiary of C.E.I.R., was made available to the Commission and is an attachment to Ex. C. Its data are based upon a sample survey conducted by the American Research Bureau during the period November 6–19, 1963.

TABLE 12.—*Network television programs sponsored by cigarette manufacturers, distributed by size of audience 18 years of age and older, Nov. 6–19, 1963*

	Number of programs
Selected programs (total)	55
Programs with audience 18 years of age and older equal to—	
30,000,000 or more	1
25,000,000 to 29,900,000	0
20,000,000 to 24,900,000	5
15,000,000 to 19,900,000	19
10,000,000 to 14,900,000	18
5,000,000 to 9,900,000	5
Less than 5,000,000	7

TABLE 13.—*Network television programs sponsored by cigarette manufacturers distributed by size of audience 13 through 17 years of age, Nov. 6–19, 1963*

	Number of programs
All programs (total)	55
Programs with audience of persons 13 to 17 years of age equal to—	
4,000,000 or more	3
3,000,000 to 3,900,000	4
2,000,000 to 2,900,000	16
1,000,000 to 1,900,000	19
500,000 to 900,000	8
Less than 500,000	5

Table 13 summarizes audience data for persons 13 to 17 years of age (referred to as "teens" in app. B). Table 13 indicates that 23 of the 55 programs sponsored in whole or in part by cigarette manufacturers had a teen-age audience in excess of 2.0 million. Since Bureau of the Census data indicate

Sponsorship information was obtained from listings in Advertising Age. Tables 12, 13, and 14 of this report summarize audience data in Appendix B.

that as of November 1, 1963, the total resident U.S. population in ages 13 through 17 equaled 17.2 million, it may be estimated that each of these programs reached an estimated minimum of about 12 percent of the total U.S. population of ages 13 to 17. One program, the "Beverly Hillbillies," had a teenage audience equal to 6.5 million, or almost 40 percent of such persons.

TABLE 14.—*Network television programs sponsored by cigarette manufacturers, distributed by size of audience 2 to 12 years of age, Nov. 6–19, 1963*

	Number of programs
Selected programs (total)	55
Programs with audience 2 to 12 years of age equal to—	
10,000,000 or more	1
7,500,000 to 9,900,000	4
5,000,000 to 7,400,000	5
2,500,000 to 4,900,000	19
1,000,000 to 2,400,000	17
Less than 1,000,000	9

Data in appendix B also indicate that substantial numbers of children between 2 and 12 years of age are exposed to cigarette advertising on network television. As shown in table 14, 29 of the 55 network television programs sponsored by cigarette manufacturers had total audiences of children of ages 2 to 12 equal to 2.5 million or more. On the basis of a census bureau population estimate for the age group of 43.7 million, this would mean that each of these programs reached a minimum of 5 percent of the children of such ages. One program, "The Beverly Hillbillies," had an audience of children 2 to 12 equal to 12.6 million, or about 28.8 percent of the children in the United States of that age group.

Because cigarette advertising is often carried simultaneously by more than 1 network, the totals in tables 12, 13, and 14 understate the probable total number of persons exposed to cigarette advertising during a single time period. For example, on Wednesday evening between 9 and 10 p.m. (e.s.t.) both the CBS and the ABC networks carry programs sponsored in whole or in part by cigarette manufacturers. On the basis of data in appendix B, the combined audience during this time period includes an estimated 45.8 million persons 18 years of age and older, 7.9 million persons between 13 and 17 years of age, and 11.4 million children between 2 and 12. This equals approximately 38 percent of the U.S. population of age 18 and over, 46 percent of the population of ages 13 to 17, and 26 percent of the population of ages 2 to 12.

TABLE 15.—*Evening hour network television programs sponsored by cigarette manufacturers distributed by size of audience 13 to 17 years of age, day of week and time period*

[Does not include programs with an audience of less than 1,000,000]

Day of week and time period [1]	Size of audience age 13 to 17				
	Total	1,000,000 to 1,900,000	2,000,000 to 2,900,000	3,000,000 to 3,900,000	4,000,000 or more
Selected programs, total	40	18	15	4	3
Programs telecast:					
Sunday through Thursday:					
Between 6 and 7:30 p.m.	[2]	[2]	[2]	[2]	[2]
Between 7:30 and 9 p.m.	15	4	7	3	1
Between 9 and 10 p.m.	7	3	2	0	2
Between 10 and 11 p.m.	4	4	[2]	[2]	[2]
Friday:					
Between 6 and 7:30 p.m.	[2]	[2]	[2]	[2]	[2]
Between 7:30 and 9 p.m.	3	2	1	[2]	[2]
Between 9 and 10 p.m.	2	1	1	[2]	[2]
Between 10 and 11 p.m.	2	1	1	[2]	[2]
Saturday:					
Between 6 and 7:30 p.m.	[2]	[2]	[2]	[2]	[2]
Between 7:30 and 9 p.m.	4	1	3	[2]	[2]
Between 9 and 10 p.m.	2	1	[2]	1	[2]
Between 10 and 11 p.m.	1	1	[2]	[2]	[2]

[1] Programs telecast 5 days a week, Monday through Friday, have been included only once and have been tabulated in the "Sunday through Thursday" group. Programs which extend beyond the time intervals specified are included in the earliest applicable time. For example, "Monday Night at the Movies" (7:30 to 9:30) is included with the 7:30 to 9 programs. Times shown are in eastern standard time.

[2] Represents zero.

Source: Bureau report, appendix B.

Table 15 provides additional information on the teenage audience for cigarette advertising. It distributes evening-hour programs sponsored by cigarette manufacturers by the day of the week and time period.[40] Table 15 indicates that the bulk of the evening programs sponsored in whole or in part by cigarette manufacturers were scheduled for broadcast during time periods ending prior to 9. p.m. (e.s.t.). As shown in table 15, 22 of the 40 evening-hour programs with an audience in excess of 1 million persons of ages 13 to 17 were telecast prior to 9 p.m. An additional 11 programs were telecast between 9 and 10 p.m. The balance, or seven programs, were telecast between 10 and 11 p.m. It may be noted that the seven programs broadcast after 10 p.m. had relatively smaller teenage audiences.

Data for other media would similarly indicate exposure of teenagers and younger children to cigarette advertising. Short of the most drastic restrictions on media use, there is no way to prevent persons under 21 or 18 years of age from being exposed to cigarette adverstising. Given the fact, found by the Surgeon General's Advisory Committee, that "all available knowledge points toward the years from the early teens to the age of 20 as a significant period during which a majority of later smokers began to develop the active habit" (ACR 368), the kind of advertising to which young persons are exposed is obviously important.

2. Themes and appeals in current cigarette advertising which portray the desirability of smoking: The Commission has examined the large number of representative advertisements summarized in the Bureau of Economics Report and made a part of the record of this proceeding, and other cigarette advertising. Our examination of cigarette advertising indicates that two elements predominate: One, portrayal of the desirability of smoking; and two, assurance about the safety of cigarettes or relative safety of the advertised brand. The basis for the first of these conclusions will be described in this section; the basis for the second conclusion will be described in the following section.

Fundamental to the question of whether the portrayal of the desirability of smoking is a dominant element of current advertising is the question whether there can be any cigarette advertising that does not directly or indirectly portray the desirability of smoking. Since there is no way to consume a cigarette without smoking it, it might be argued that all cigarette advertising is, in some degree, a portrayal of the desirability of smoking. By this reasoning, even premium offers such as those now being made for Raleigh, Belair, and Alpine cigarettes would constitute a portrayal of the desirability of smoking. These offers, however, are not directly related to the experience of smoking. Direct portrayal of the desirability of the smoking experience is, in any event, sufficiently prevalent that there is no need to rely on examples of indirect portrayal in order to demonstrate that portrayal of the desirability of smoking is a dominant element in current cigarette advertising; i.e., advertising appearing since January 1, 1963.[41]

The direct portrayal of the desirability of smoking is largely accomplished in the following two ways: (a) By describing the satisfactions derived from smoking; and (b) by associating smoking with individuals, groups, or ideas worthy of emulation or likely to be emulated. Our view that current cigarette advertising portrays the desirability of smoking does not imply that we doubt that smoking affords pleasure, enjoyment, and other satisfactions to many individuals. Neither do we doubt that smoking is a habit enjoyed by many individuals worthy of emulation. However, for reasons that will appear, the character of current cigarette advertising is relevant to the questions involved in this proceeding. Sections (a) and (b) which follow describe in detail the portrayal in current advertising of the desirability of smoking.

(a) Descriptions in current advertising of the satisfactions to be derived from smoking: A review of current advertising indicates that virtually every cigarette brand makes one or more claims respecting the satisfactions to be derived from smoking. Examples of such claims are reproduced in table 16. The Pall Mall slogan, "Pall Mall travels pleasure to you," illustrates the theme of pleasure in current cigarette advertising. We take it as obvious that when an advertisement describes a product as affording pleasure, the advertisement is portraying the desirability of using that product. There is, of course, no way to obtain pleasure from a Pall Mall without smoking it. Pall Mall is not alone in its use of the word "pleasure." Winston offers a cigarette that is "packed for pleasure"; Kent promises "more real smoking pleasure"; and Camel advertising suggests that "Camel time is pleasure time."

[40] It should be noted that all times specified are eastern standard time. This would mean that viewing time in the central time zone would generally be one hour earlier. Hours of television broadcasting in the Pacific time zone are generally identical to those of the eastern time zone. Not included in table 15 are programs with a teenage audience of fewer than 1 million. The few programs which are not contained in the time intervals specified in stub of the table have been included in the earliest applicable time period. For example, "Monday Night at the Movies," a program broadcast between 7:30–9:30 p.m. (e.s.t.), has been included with the 7:30 to 9 p.m. programs.

[41] As indicated by the advertising summaries contained in the analysis sheets of Appendix A of the Bureau of Economics Report, the portrayal of the desirability of smoking has consistently been a prominent characteristic of cigarette advertising. Appendix A contains extensive excerpts from the cigarette advertising of the period 1950 to March 1, 1964, and a limited number of excerpts from earlier advertising.

TABLE 16.—*The portrayal in current advertising of the satisfactions to be obtained from smoking*

Brand	Type	Sales rank during 1963	Excerpts from advertising	Date	Source [1]
Pall Mall	King size	1	Pall Mall travels pleasure to you	January 1964	Vol. I, p. 40.
			Pall Mall's natural mildness is so good to your taste. So smooth, so satisfying, so darn right smokeable. For flavor and enjoyment you just can't beat Pall Mall's natural mildness. It's so good to your taste. * * * Enjoy satisfying flavor.	September 1963	Vol. I, p. 35.
Winston	Filter	2	This is the filter cigarette that's packed for pleasure * * * More people find it fun to smoke Winston than any other cigarette, because Winston tastes good like a cigarette should.	Jan. 3, 1963	Vol. I, pp. 68, 69.
Camel	Regular	3	Camel Time is a pleasure time—honest enjoyment—clean-cut taste. * * * You make any moment a little bit brighter the minute you light a Camel cigarette * * *.	1964	Vol. I, p. 2.
Salem	Menthol	4	Salem softness refreshes your taste * * *. Salem gives you * * * rich tobacco taste, smoothed with menthol—softened with fresh air.	Nov. 8, 1963	Vol. I, p. 139.
Kent	Filter	5	Kent has the filter and the taste to give you more real smoking pleasure. * * * Kent satisfies best.	Sept. 23, 1963	Vol. I, p. 70.
			When you light up a cigarette * * * it's for real satisfying pleasure. And may I say, you get more of that satisfying pleasure * * * when you smoke Kent.	Sept. 27, 1963	Vol. I, p. 75.
			Here is smoking at its very best. Just the way smoking should be, satisfying and pleasant.		
Lucky Strike	Regular	6	Taste fine tobacco at its best. Smoke a Lucky Strike * * * the taste that millions like.	February 1964	App. D.
			Smoking is a pleasure meant for adults. And Lucky Strike's fine tobaccos are blended for adult tastes.	Fall 1963	Vol. I, p. 14.
L&M	Filter	7	You get more body in the blend, more flavor in the smoke, more taste through the filter.	August 1963	Vol. I, pp. 81, 82.
Marlboro	do	8	There's richer flavor in this one from the richer breed of tobaccos * * * you get a lot to like with a Marlboro.	do	Vol. I, p. 84.
Chesterfield	Regular and king size	9	Today's Chesterfield king * * * pure pleasure all the way * * * tastes great.	July 1963	Vol. I, p. 56.
			They satisfy	May 8, 1964	App. D.
Viceroy	Filter	10	Viceroy's got the taste that's right	Dec. 30, 1963	Vol. I, p. 94.
Kool	Menthol	11	Kool's menthol magic brightens taste, refreshing all day through, feel extra coolness in your throat. * * *	Mar. 15, 1963	Vol. I, p. 145.
Herbert Tareyton	Filter, king	12	Get * * * the fine tobacco taste that makes Tareyton smokers so aggressively loyal.	Dec. 11, 1963	Vol. I, p. 109.
Raleigh	do	13	Every day more and more people are discovering the extra pleasure of smoking Raleigh cigarettes * * * Raleighs have a real tobacco taste.	Oct. 9, 1963	Vol. I, p. 117.
Parliament	Filter	14	Parliament lets you enjoy true, rich tobacco flavor	Jan. 22, 1964	App. D.
Newport	Menthol	15	Newport * * * the most refreshing smoke of all. Newport has * * * a blend of great-tasting tobaccos. Newport refreshes while you smoke, makes the flavor fresher.	June 28, 1963	Vol. I, p. 154.
Philip Morris	Regular and king	16			
Old Gold	Filter, king	17	Old Gold spin filters. Best taste yet in a filter cigarette	Nov. 9, 1963	Vol. I, p. 121.
Belair	Menthol	18	Clean and fresh as all outdoors—that's the pleasure you get in the clean fresh taste of Belair.	October 1963	Vol. I, p. 158.
Alpine	do	19	What's it like to smoke an Alpine? Well, it's like many fresh little things you enjoy. It's like the breeze through the willows at the waters edge—or the way the air feels at dawn * * * a bright, invigorating taste * * *.	Jan. 10, 1963	Vol. I, p. 165.
Montclair	do	20	You'll taste the difference, the delicious difference with your very first puff * * *. Discover for yourself how good good tobacco can taste when the menthol's in the filter * * *.	October 1963	Vol. I, p. 172.

[1] Sources consist of appendix, vol. I, of Bureau of Economics, "A Report on Cigarette Advertising and Output," and app. D.

Taste and flavor are also prominent features of current advertising. Pall Mall reminds smokers that, "it's so good to your taste." Camel promises "clean cut taste," and Kent is claimed to have "a taste to give you more real smoking pleasure." Filter cigarettes, such as Marlboro and Viceroy, emphasize "richer flavor" and "the taste that's right" respectively. Dual filter Tareyton is claimed to have "a fine tobacco taste that makes Tareyton smokers so aggressively loyal," and Parliament is claimed to be a cigarette that "lets you enjoy true, rich tobacco flavor."

Menthol cigarette advertising is notable for its stress on "refreshment." Salem, for example, claims that "Salem softness refreshes your taste," while Kool claims that its menthol magic is refreshing all day through. Another menthol cigarette, Newport, promises "the most refreshing smoke of all."

As is evident from the above-quoted examples from regular, king, filter, and menthol cigarette advertising, and from other examples in table 16, current cigarette advertising is replete with descriptions of the satisfactions to be derived from smoking. These descriptions are both explicit and varied. Their constant repetition in advertising which reaches vast numbers of Americans of all ages must be viewed as significantly contributing to the portrayal of the desirability of smoking.

(b) Association of smoking with ideas, individuals, and groups worthy of emulation or likely to be emulated: If a pervasive feature of current cigarette advertising is description of that satisfactions to be derived from smoking, an equally important aspect of current advertising is the association of smoking with individuals, groups, and ideas worthy of emulation or likely to be emulated. Our review of current advertising indicates that such associations are characteristic of the advertising of virtually every significant brand of cigarettes. For example, current advertising prominently associates smoking with romance, fun, and recreational activities; it features endorsements by actors, singers, military personnel, and individuals engaged in occupations such as boat designing and real estate development. Current advertising makes extensive use of young and attractive male and female models; and it urges smokers to follow the lead of knowing persons who prefer a particular brand. Even if all advertisements which depict couples in romantic surroundings enjoying the pleasures of cigarette smoking do not necessarily imply that smoking is essential to romance and good looks, such advertising plainly suggests that cigarette smoking is a desirable, attractive, and rewarding activity.

Associations in current advertising between smoking and individuals and ideas worthy of emulation or likely to be emulated are numerous and varied. Examples of such associations are described below in detail for the principal brands.

Pall Mall, sales rank in 1963: 1: Recent Pall Mall advertising associates smoking with glamour or romance by the use of attractive female models (see Bureau report, Appendix, vol. I, pp. 35, 38, 39, 41). The smoking of Pall Mall cigarettes is also depicted in a convivial situation in which six persons are engaged in group singing (vol. I, p. 40).

Camel, sales rank in 1963: 2: Recent Camel advertising has contained endorsements by individuals described as follows: (1) Bill Bunton, underwater research specialist, expert scuba diver, Camel smoker (vol. I, p. 4); (2) Russell Youngblood, Balloon Club of America, jet pilot, captain, U.S. Air Force. "He'd walk a mile for a Camel" (vol. I, p. 5); and (3) Ray Buckner, chief petty officer, polar navigation specialist, U.S. Coast Guard (vol. I, p. 8).

Winston, sales rank in 1963: 3: Recent Winston television advertising has depicted couples at a hobby shop and a golf driving range. In another television commercial, a couple is depicted having fun in the snow with a small boy. (See App. D, infra.)

Salem, sales rank in 1963: 4: Salem advertising portrays young couples in a variety of romantic, outdoor settings (vol. I, pp. 138, 139, and 141).

Kent, sales rank in 1963: 5: Kent advertising depicts the smoking of Kent cigarettes in both romantic and sophisticated-romantic situations. The advertising also portrays widespread use of Kent cigarettes by individuals in a variety of occupations (vol. I, pp. 74, 75, and 77).

L. & M., sales rank in 1963: 7: Recent L. & M. advertising associates the smoking of L. & M. with "good times." A magazine illustration similarly depicts hunters enjoying L. & M. "When a cigarette means a lot" (vol. I, pp. 80, 81).

Marlboro, sales rank in 1963: 8: Marlboro advertising is currently most notable for its

association of Marlboro with a rather heroic conception of the cowboy. (See app. D, infra.) Marlboro advertising has also featured romantic settings, as illustrated by the following excerpt from a television script:

"1. Open on downshot of a convertible in beautiful big tree country. At night, with full moon.

"2. Cut to shot taken through the windshield of the car as it speeds down a country lane lined with trees.

* * * * *

"5. Dissolve to downshot of car as it pulls off road at edge of woods. We see Julie [London] and her escort in a beautiful sports convertible" (vol. I, p. 91).

Chesterfield (regular and king size), sales rank in 1963: 9: Recent Chesterfield advertising has depicted male Chesterfield smokers engaged in such activities as mountain climbing, dune buggy racing, and bicycle racing (vol. I, pp. 53, 54, 58). In these advertisements, a romantic element was also present. Chesterfield advertising has also featured personal endorsements by the actor, Gary Merrill, and by persons engaged in such occupations as costume design, real estate development, and boat design (vol. I, pp. 53, 54, 55, 58; also app. D. infra).

Viceroy, sales rank in 1963: 10: Recent Viceroy advertising has depicted couples smoking Viceroy cigarettes at a football game and a ski lodge (vol. I, pp. 93, 94). Viceroy television advertising has also featured skits such as the following:

"1. Owner of dude ranch is offered Viceroy cigarette by female guest. He explains that he subsequently adopted the cigarette and married the girl. (App. D, infra.)

"2. A man buying flowers for his wife on the occasion of their wedding anniversary describes his adoption of Viceroy cigarettes as a result of the florist's suggestion" [vol. I, p. 96].

3. Themes and appeals in the current advertising of filter and menthol-filter cigarettes which tend to allay anxiety about the dangers of smoking: Our examination of current advertising indicates that themes and appeals which allay anxiety about the dangers of smoking are most common in the advertising for filter and menthol-filter cigarettes. During 1963, filter and menthol-filter cigarettes respectively accounted for 43 and 15.8 percent of total consumption. Their combined share exceeded 58 percent of total consumption. The advertising discussed in this section, therefore, relates to types of cigarettes accounting for more than half of total 1963 consumption. In the 18 months since January 1, 1963, filter cigarette advertising has displayed divergent trends. The purpose of this section is to review the principal types of themes and appeals utilized in recent filter advertising, which have a tendency to allay the anxiety that might be felt by many in the advertising audience concerning the health hazards of cigarette smoking.

Any consideration of the advertising for filter cigarettes needs to be placed in the context of the history of filter cigarettes. Although the first of the filter cigarettes, Parliament, had been introduced as early as 1931, it was not until 1952 that the first of the "modern" filter cigarettes, Kent, was introduced, and it was not until after the evidence of the health hazards of cigarette smoking first became substantial and well-publicized in the early 1950's that sales of filter cigarettes increased. For example, in 1952, filter cigarettes accounted for approximately 1.3 percent of total output. In 1953, their share had increased to 3.2 percent. But in the following year, their share more than tripled and they accounted for 10.1 percent of total cigarette output. The substantial increase in filter cigarette consumption has strikingly paralleled the increasing concern over the health hazards of smoking.

Over the years, the themes and appeals used to promote filter cigarettes have varied in explicitness. Since the early 1950's, however, virtually no filter cigarette advertising has been free of assertions which seem intended to allay anxieties about the danger of smoking. Excerpts from filter advertising during the years 1957 to 1959 appear in table 17. These excerpts are representative of the "tar derby" era, and they suggest, in conjunction with the parallel, noted above, between filter consumption and concern with the hazards of smoking, that the mere addition of a filter to a cigarette is, in and of itself, some kind of claim or assurance relating to the health aspects of smoking. The purpose of the discussion which follows is to describe the ways in which current themes and appeals relating to filter cigarettes provide additional assurance about the health or safety of smoking cigarettes or the particular brand being advertised.

(a) Winston advertising: Current filter advertising considerably varies in the explicitness of, and the emphasis given to, themes and appeals which appear designed to allay anxiety about the dangers of smoking. Recent advertising for Winston illustrates some of this variation. This brand, it should be noted, has been the leading filter cigarette since 1955, and has ranked second among all brands since 1962. Much Winston advertising reminds the viewer or reader that Winston has a "pure white modern filter" and that Winston is "America's best-selling filter cigarette." (See, e.g., Bureau report, Appendix, vol. 1, pp. 64–66, 68.) The phrase "modern filter," of course, says nothing explicitly about the efficacy of the filter; it could imply to many people, however, that the Winston filter is sufficiently "modern" to cope with any dangerous properties in cigarette smoke. The reasonableness of this interpretation is supported by the fact that most Winston advertisements do not anywhere explicitly state the purpose of the filter. Unlike so-called flavor-filter advertising, Winston advertisements do not claim that the filter is particularly useful in improving flavor. Indeed, a notable feature of Winston advertising is the stress on "filter blend," that is, "tobaccos specially selected and specially processed for filter smoking." An implication of these statements is that Winston provides good taste despite the inclusion of a filter that is "modern," i.e., effective.

TABLE 17.—*Examples of filter claims in advertising during the years 1957 to 1959*

Brand	Excerpts from advertising	Date	Source [1]
Viceroy	Only Viceroy gives you filter power of 20,000 filters	October 1957	Vol. III, p. 73.
	The man who thinks for himself knows—only Viceroy has a thinking man's filter—a smoking man's taste	Feb. 2, 1959	Vol. III, p. 77.
	Only Viceroy has it. The best filter of its kind ever developed. Does the finest filtering job in the world—for the finest taste.	Dec. 21, 1959	Vol. III, p. 97.
L&M	But puff by puff today's L & M gives you less tars and more taste	Dec. 8, 1958	Vol. III, p. 97.
	L&M's patented filtering process electrostatically places extra filtering fibers crosswise to the stream of smoke—enabling today's L&M to give you—puff by puff—less tars in the smoke than ever before.	1958	Vol. III, p. 106.
Marlboro	Today's Marlboro—22 percent less tars, 34 percent less nicotine	1959	Vol. III, p. 133.
	The Marlboro filter. Cellulose acetate is a modern effective filter material for cigarettes. This unretouched photo shows the cellulose acetate in just 1 Marlboro exclusive selectrate filter.	1958	Vol. III, p. 123.
Kent	Kent filters best. Of all leading filter cigarettes—you get less tar and nicotine in Kent. New exclusive micronite filter.	October 1959	Vol. III, p. 135.
	It makes good sense to smoke Kent—and good smoking, too	1959	Vol. III, p. 144.
Old Gold filters	What's the most important single thing you smoke for? It's for the pleasure of good tobacco taste, isn't it? That's why Old Gold's new spin filter is making such a hit with so many thousands of smokers every day. Because this new spin filter does more than reduce tar and nicotine—it actually improves smoking taste.	Jan. 28, 1959	Vol. III, p. 153.
Hit Parade	Only 1 cigarette can filter best. According to a new and superior method of testing for filtration—that cigarette is Hit Parade.	July 14, 1958	Vol. III, p. 161.
Parliament	The first filter cigarette in the world that meets the standards of United States Testing Co. New Hi-Fi Parliament. Proved: Over 30,000 traps—the most effective filtering material, millimeter for millimeter in a cigarette today. No other popular filter cigarette delivers less nicotine and tar. Proved: No other filter prevents leakage of tar and nicotine from filter to mouth. Only Parliament's filter is recessed, set deep down inside the mouthpiece where your lips can't touch it. Proved: New hi-fi filter—with exclusive recessed design—offers you the most complete filtering action in cigarette history. All the above filtering findings are certified true by the United States Testing Co., world's leading independent research laboratories.	Feb. 24, 1958	Vol. III, p. 182.
King Sano	Announcing new "soft smoke" King Sano. Reduces nicotine 50 percent—cuts tar 26 percent below any other cigarette—and that is the truth.	Sept. 1, 1958	Vol. III, p. 204.
Life	Unless you change to new Life—your filter cigarette no longer filters best. New Life with millecel filter filters best by far. Absorbs far more tar and nicotine that any other filter.	1959	Vol. III, p. 213.
Duke	Unlike others, Duke is king-sized in the filter, too, where it matters most—see? So, it's lowest in tar of all leading low-tar cigarettes.	1959	Vol. III, p. 214.
Spring	Tars and nicotine go down, down, down. In Spring, tars and nicotine are low, low, low—for three reasons: 1. New process of "air-conditioning"—for more complete combustion and burning. 2. Has extra filter action in the honeycomb filter. 3. A special blend of low tar and nicotine tobaccos.	Sept. 17, 1959	Vol. III, p. 250.
	The air-conditioned cigarette is lowest in tars, lowest in nicotine, lightest in menthol all menthol cigarettes	1959	Vol. III, p. 251.

[1] Advertisements are contained in appendix vol. III of Bureau of Economics, "A Report on Cigarette Advertising and Output."

Winston advertising in February of 1964 took a considerably more explicit stand on the merits of its filter. (App. D, infra.) The advertisement first points out that "There is no need to shout. Winston speaks for itself. It is America's largest selling filter cigarette, by far." The advertisement then goes on to ask, "What does Winston have that makes it a leader?" The advertisement attributes the success of Winston to three factors: One, a pure white, modern filter; two, filter blend; and three, the fact that Winston has flavor—the best there is. The advertisement then asks, "If you are thinking of changing to a filter cigarette, consider this: People who know and enjoy filter smoking make Winston their overwhelming choice." It appears that the advertisement, taken as a whole, implies that Winston is a safe cigarette, or at least safer than its less popular competitors. First, the advertisement initially emphasizes a pure white, modern filter; this in itself seems to promise some health protection—else what significance has "pure," "white," or "modern"? Second, the advertisement's open-ended question, "If you are thinking of changing to a filter cigarette," further serves to bring to mind the health issue since a major reason for switching to filter cigarettes is, evidently, to minimize the health hazards in smoking. Third, the advertisement's statement that those "who know * * * filter smoking make Winston their overwhelming choice," is in effect a claim that among persons knowledgeable about the health hazards of smoking and about the merits of all brands of filter cigarettes, Winston cigarettes are preferred to all others.

(b) Lark advertising: The Winston advertisement previously discussed represents a middle ground in filter and menthol-filter cigarette advertising. Both less and more explicit claims respecting the health or safety of cigarette smoking are to be found in filter and menthol-filter advertising. For example, the back of the Lark package contains the following information: "Lark contains two modern outer filters plus an inner filter of charcoal granules—a basic material science uses to purify air." "These granules, not only activated but specially fortified, filter smoke selectively to make Lark's fine tobaccos taste richly rewarding yet uncommonly smooth." (Bureau report, appendix, vol. I, p. 133.) Despite the inclusion of a taste claim, these statements are subject to the interpretation that the purpose of including a filter of charcoal granules in the Lark cigarette is to purify the smoke and provide a safe cigarette. The Lark package also describes its filter as "unique in cigarette filtration." This usage of the word "unique" carries with it the implication that Lark is superior to any other cigarette in the capacity of its filter to provide a safe cigarette.

(c) Marlboro and Viceroy advertising: So-called flavor filter advertising is illustrated by recent Marlboro advertising, which contains statements such as "It comes to you plenty mild, too—through the exclusive selectrate filter" (Bureau Report, appendix, vol. I, p. 84), and "good flavor smoothed by the exclusive selectrate filter." (App. D, infra. These statements do not state that Marlboro cigarettes possess a filter capable of selecting out hazardous substances from cigarette smoke or that the filter, by virtue of its exclusiveness, makes Marlboro a cigarette safer than any other. Because of public concern about the health hazards of smoking, however, just such misinterpretations are extremely likely.

Viceroy advertising combines elements in Winston and Marlboro advertising. Its advertising claims that "Viceroy's got the deep-weave filter * * * and the taste that's right." (Bureau report, appendix, vol. I, p. 95.) The syntax of this statement associates taste and filter but implies a separate usefulness to the filter apart from its ability, claimed elsewhere, to provide the taste that's right. The advertisement also suggests that Viceroy is superior to the other leading filter cigarettes because of its deep-weave filter and the taste that's right. The wording of this advertisement conveys the impression that Viceroy is superior to any other filter cigarette in safety and that the "deep-weave filter," because of the depth of its weave, is capable of barring entry into the mouth of the harmful ingredients of cigarette smoke.

(d) Dual-filter Tareyton advertising: One of the problems encountered in an analysis of current cigarette advertising is how to evaluate themes and appeals which, when literally interpreted, do not state that smoking is safe, but which nevertheless contain such an implication. For example, dual-filter Tareyton advertising explains that "the white filter gives you the clean taste" and "the charcoal filter gives you the smooth taste." (Bureau report, appendix, vol. I, p. 103.) If it were established that smoking involved no hazards to health, the adjectives, clean and smooth, might be accepted as descriptions of the intrinsic properties of the smoke. However, in the context of the tar and nicotine reduction claims made for filter cigarettes in the "tar derby" era and in the context of current medical knowledge and public concern for the health hazards of smoking, the adjectives, clean and smooth, when used to describe a filter cigarette, may imply to a cigarette smoker that because the advertised cigarette's smoke is neither unclean nor rough it is, therefore, free of hazards. This is particularly likely because as mentioned earlier, the addition of a filter to a cigarette in and of itself may promise some reduction of health hazards to many consumers. Virtually any adjective, therefore, which ascribes improvement in the cigarette smoke to a filter may carry the implication that the cigarette is not a hazard to health or is less of a hazard to health than other brands or types of cigarettes.

(e) Parliament advertising: Parliament advertising provides a particularly good example of the combination of safety claims, flavor-filter claims, and what might be called the residuum of safety claims from earlier years. Typical Parliament television advertisements of early 1964 have portrayed such scenes as two men watching a girl water skiing, and a couple on a sailing yacht. The advertisements ask the question, "If you like things neat and clean—you will like Parliament." The advertisements then explain that "tobacco tastes best when the filter's recessed. Smoke neat—smoke clean—smoke Parliament. Parliament lets you enjoy true, rich, tobacco flavor because the filter's recessed a neat, clean, quarter inch away. That's Parliament's extra margin. Neat, clean smoking, and plenty of flavor too." (App. D, infra.)

The words "neat and clean" constitute the central message of this advertising. Both advertisements, in fact, include the words "neat and clean" in their titles. One advertisement it entitled "Water Skiing—Neat, Clean"; the other is entitled "Neat, Clean Jacket." These recent Parliament advertisements also contain a flavor-filter claim which includes the words "neat and clean": "Parliament lets you enjoy true, rich, tobacco flavor because the filter's recessed a neat, clean, quarter inch away." At an earlier point, however, each advertisement contains the phrase "Smoke neat—smoke clean." This phrase conveys the implication that the smoke of a Parliament cigarette is neat and clean and, therefore, not a hazard to health.

Other claims frequently made in current Parliament advertising relate to its recessed filter and extra margin. These are contained in the following statements: "Parliament lets you enjoy true, rich, tobacco flavor because the filter's recessed a neat, clean, quarter inch away. That's Parliament's extra margin." These statements might be viewed as simply a description of the recessed filter, but in view of earlier Parliament advertising it would appear that promises of safety are inherent in any Parliament claim relating to a recessed filter and extra margin. During 1958, as shown in table 17, supra, a different explanation was made by Parliament of the benefits of a recessed filter: "Proved: No other filter prevents leakage of tar and nicotine from filter to mouth. Only Parliament's filter is recessed, set deep down inside the mouthpiece where you lips can't touch it."

Prior to 1964, a different explanation was also offered by Parliament of the phrase "extra margin." In 1963, for example, Parliament cigarettes were advertised in television commercials entitled "Parachute" and "Hockey Headguard." (Bureau Report, Appendix, vol. I, pp. 112, 115.) The "Parachute" advertisement began as follows: "Picture—Open on closeups of parachute jumper as he clings to the side of the plane, ready to jump. Cut as he lets go and falls away from the plane in spread-eagle position. Cut to jumper as he maneuvers his body toward the target on the ground. He pulls his ripcord to release his parachute. Cut to closeup of parachute as it billows open. Wipe to jumper on the ground as he gathers in the lines of his chute. Cut to him as he pats his emergency chute which is still packed and slung on his chest. An announcer then observes "this man knows the value of an extra margin—in the extra chute he carries—in the cigarette he smokes." The advertisement then goes on to explain that "every Parliament gives you—extra margin: extra margin—because—Parliament puts the filter where it does you the most good—recessed a neat, clean quarter inch away—extra margin—because—tobacco tastes best when the filter is recessed." This advertisement conveys the impression that Parliament provides the cigarette smoker with an extra safety margin. Although Parliament advertising no longer provides such dramatic illustration of the value of extra margin, the phrase "extra margin" may still imply that Parliament is a safe cigarette, particularly to those who may recall the earlier advertising and who may in their minds insert the word "safety" between the words "extra" and "margin."

(f) Menthol-filter advertising: Advertising for menthol-filter cigarettes, as might be expected, contains a number of appeals identical to those characteristic of filter advertising. Table 18 contains examples of such appeals. As shown in that table, Salem, Kool,

TABLE 18.—*Filter claims in menthol—Filter advertising*

Brand	Excerpt from advertising	Date	Source
Salem	Modern filter	Nov. 8, 1963	Vol. I, p. 139.
Kool	Pure white filter	Mar. 15, 1963	Vol. I, p. 146.
Newport	Only Newport has a fine white filter	June 28, 1963	Vol. I, p. 154.
Montclair	Montclair gives you activated charcoal in a unique compound filter. Only Montclair filters in freshness—filters in flavor the whole smoke through.	November, December 1963.	Vol. I, p. 170.
Paxton	* * * New team of filters back to back. Filter No. 1 is fortified with pecton. Actually controls moisture to freshen the flavor with every puff. Filter No. 2 keeps Paxton's rich flavor good and mild.	1963	Vol. I, p. 175.
Spring	Spring's longer filter smooths the taste	Oct. 16, 1963	Vol. I, p. 183.

and Newport cigarettes are each described as having white filters; Spring, however, is advertised as provided with a larger filter and Paxton with a team of filters. Finally, Montclair cigarettes are described as having a unique compound filter of activated charcoal.

Menthol-filter advertising also presents appeals based upon the specific menthol properties of these cigarettes. Some of these appeals seem intended to convert cigarettes into a "refreshment," and to transport the smoker into a world so well insulated from any suggestion of health hazards that the effect is to assure the smoker that smoking is safe.

Advertising for Salem cigarettes, the leading menthol-filter brand and the fourth-ranked brand among all brands, is illustrative of important characteristics of current menthol-filter advertising. Salem cigarette advertising is most notable for its portrayal of couples in romantic, outdoor settings. (Bureau Report, Appendix, vol. 1, pp. 137–42.) Both the settings and the models are attractive. Both reader and viewer of Salem advertising are invited to "step into the wonderful world of Salem cigarettes." A television commercial explains that "there is a wonderful world of softness" and a "wonderful world of freshness" which is the world of Salem cigarettes. Such advertising may be viewed as relating exclusively to the intrinsic properties of Salem cigarettes. Such advertising, however, also has the effect of creating for Salem cigarettes a world in which it is impossible to conceive of health hazards having any role.

Kool, one of the earliest of the menthol brands and one which has been marketed for more than 30 years, now ranks second among the menthol filters. Kool, however, unlike light-menthol Salem and other newer brands of menthol cigarettes such as Newport, Belair and Alpine, is a heavy-menthol cigarette. In addition, Kool is manufactured both with and without a filter, although filter output now constitutes more than 75 percent of total Kool output. Advertising for Kool reflects its heavy-menthol properties. For example, Kool is proposed as the cigarette for the man who has smoked so many cigarettes during the day that he no longer is interested in cigarettes because, "They do not taste like much." (Id., Appendix, vol. I, p. 148). This appeal comes close to attributing therapeutic qualities to Kool cigarettes, insofar as Kool cigarettes are claimed to be capable of restoring one's physical ability to enjoy smoking. Kool advertising also contains appeals similar to those used by light-menthol brands. A Kool jingle claims that "Kool's menthol magic brightens taste, refreshing all day through." (Id., Appendix, vol. 1, p. 145.)

Newport cigarette advertising, like Salem cigarette advertising, relies heavily on the portrayal of romantic outdoor situations (id., appendix, vol. I, pp. 154–156). Newport advertisements, for example, portray young couples having fun in or near the water. One television commercial is entitled "Walking in Surf"; another, "Man on Raft." These advertisements, like the earlier described Salem advertisements, depict smoking in an essentially pure environment, in a world effectively insulated from health hazards. Such advertising has a tendency to assure smokers that there is no hazard to health in smoking the advertised brand.

Advertising for Belair cigarettes, the third-ranking brand of light-menthol cigarettes, emphasizes: "clean and fresh as all outdoors—that's the pleasure you get in the clean fresh taste of Belair" (id., appendix, vol. I, p. 158). A careful reading of this language indicates, of course, that the phrase "clean and fresh as all outdoors" is literally a description of the pleasure derived from smoking Belair rather than a description of the cigarette smoke itself. (The latter would obviously mean that the smoking of Belair cigarettes is completely safe.) The net impression of Belair advertising is such, however, that it is quite likely that the statement will be understood as a claim that the smoke of Belair cigarettes is, indeed, "clean and fresh as all outdoors." Belair advertising, like that earlier described for Salem cigarettes, portrays couples in outdoor, romantic settings which are in fact "clean and fresh." The world of Belair cigarettes is thereby so far removed from health hazards that the advertising suggests that smoking Belair cigarettes cannot be a hazard to health.

Alpine, the fourth-ranking brand among light-menthol cigarettes, makes the following appeal: "What's it like to smoke an Alpine? Well, it's like many fresh, little things you enjoy. It's like the breeze through the willows at the water's edge or the way the air feels at dawn. That's what it's like to smoke an Alpine." (Id., Appendix, vol. I, p. 165.) Language such as this, when combined with the portrayal of male and female models in outdoor settings of appropriate beauty, carriers with it the implication that the smoke of an Alpine cigarette is as safe as exceptionally pure air at dawn. Alpine advertising also claims that "Alpine is completely different from the sort of smoking you may be used to. A bright, invigorating taste, pack after pack." The claim that Alpine taste is invigorating is not very far, in its net impression, from the claim that smoking (or smoking Alpine) is invigorating. Montclair, another brand of light-menthol cigarettes, makes the claim that "Only Montclair filters in freshness, filters in flavor the whole smoke through." (Id., appendix, vol. I, p. 169.)

4. The impact of cigarette advertising on youth: During 1963 Marlboro cigarettes presented an advertisement in college newspapers which consisted of a column written by the humorist, Max Shulman. (Bureau report, appendix, vol. I, p. 85). The Philip Morris Co. conducted a contest for college students in which prizes could be won by saving empty packages of Marlboro, Parliament, Alpine, Philip Morris and Paxton cigarettes. Other brands have also extensively advertised in college newspapers and have engaged student representatives to give out samples and otherwise promote cigarettes. It was reported in Changing Times, December 1962, p. 34, that cigarette companies accounted for 40 percent of the national advertising appearing in college periodicals and that students hired as campus representatives to pass out free cigarette samples and organize contests were paid about $50 per month.

Endorsements by athletes have been a prominent part of the advertising of several cigarette brands. Camel advertising, for example, has featured a personal endorsement by the New York Yankee star Roger Maris. (Bureau Report, Appendix, vol. II, p. 3.) The text of the advertisement explained that "These hands rewrote the records with a baseball bat. They are the hands of Roger Maris—the man who hit 61 home runs in 61. Roger smokes Camels. He likes 'em. Gets real enjoyment every time he lights up!" Lucky Strike advertising has featured the New York Giant football player, Frank Gifford. (Id., appendix, vol. II, p. 12.) A Lucky Strike advertisement showed a picture of Frank Gifford in action in 1957 and explained that in 1957 "the young New York Giant halfback was already a top star—and a Lucky Strike smoker." The advertisement also showed Frank Gifford today (1962) and commented that "now one of pro football's all-time greats, Frank's still a satisfied Lucky smoker." This advertisement at the very least implied that there was nothing inconsistent between smoking Lucky Strike for 5 years and becoming "one of pro football's all-time greats."

Cigarette companies have also sponsored numerous sports broadcasts and telecasts. Marlboro, during 1962, for example, sponsored National Football League television broadcasts. Its advertising featured an endorsement by Paul Hornung, Green Bay Packers halfback and 1961 National Football League Player of the Year. (Bureau report, appendix, vol. II, p. 106.) Baseball players have similarly been featured in cigarette advertising.

It may also be noted that during earlier years, some cigarette advertising made use of youthful models. During 1957, for example, Winston ran an advertisement which depicted a college professor correcting a student couple in their use of the slogan, "Winston tastes good like a cigarette should" (Bureau report, appendix, vol. III, p. 55). Other advertisements during 1957 to 1959 also had male and female models quite young in appearance. (See, for example, id., appendix, vol. III, pp. 55, 105, 124, 137.) A student motif was also made use of by Spring cigarettes during late 1959. An advertisement for Spring stated that "Spring arrives on campus—all over America. Green, blue, and white will be prominent colors on every campus this fall, regardless of the college colors. Because returning students are smoking Spring cigarettes, in the white pack with blue and green stripes" (id., appendix, vol. III, p. 250).

D. The effects of cigarette advertising

1. Cigarette consumption and advertising—a summary: As described in the Bureau of Economics' Report, "During the 50 years since 1913, per capita consumption of cigarettes has increased from 164 cigarettes per year in 1913 to approximately 4,000 per year in 1963. During this same period, total domestic consumption has increased from an estimated 16 billion units to 509 billion units. In 1913, cigarettes accounted for 8.7 percent of the tobacco consumed by Americans. However, by * * * [1963] more than 80 percent of U.S. tobacco consumption was in the form of cigarettes. Manufacturers of cigarettes have increased advertising expenditures from an estimated $13.8 million in 1913 to more than $200 million in 1963." (Bureau Report 1; see "Annual Report on Tobacco Statistics," 1963, p. 52.)

The years prior to 1950 were characterized by the dominance of three brands of regular cigarettes, Lucky Strike, Camel, and Chesterfield. In 1925 these brands accounted for 82 percent of total cigarette output; in 1935 the figure was 85 percent; and in 1950, 67.9 percent. The years since 1950, however, have been marked by their decline. By 1963, the share of output accounted for by the three brands had diminished to 20.6 percent and two of the three brands no longer ranked among the top three.

The years since 1950 have been notable principally for substantial increases in the output shares of filter and menthol-filter cigarettes. In 1952 no menthol-filter cigarettes were produced and the output share of filter cigarettes was 1.3 percent. By 1963, the combined total for filter and menthol-filter cigarettes was about 58 percent of total cigarette consumption. During the same period, the output share of regular cigarettes had declined from 77.6 percent to 21.5 percent.

The leading four brands of 1963 reflect these changes. Ranking first in 1963 with an output share of 14.3 percent was Pall Mall, a king-size cigarette. Second, with 13.6 percent, was Winston, a filter-king cigarette. Third, with 11.8 percent, was Camel, a regular-size cigarette. Fourth, with 8.8 percent, was Salem, a menthol-filter king. Together these brands accounted for almost 50 percent of total 1963 output.

Internal Revenue Service data for the six leading cigarette manufacturers indicate that their advertising expenditures increased from $84.8 million in 1950 to $236.4 million

in 1960, or by 178.7 percent. By comparison, during this same period, there were considerably smaller increases in total and per capita cigarette consumption. During these years, total cigarette consumption increased by 30.5 percent and per capita consumption by 17 percent.

Trade publication data for the period 1952 to 1962 indicate that during these 11 years, the six companies spent approximately $1.2 billion for television, general magazine, and newspaper advertising. Between 1952 and 1962, their advertising expenditures in the three media increased by approximately 200 percent. By comparison, total domestic cigarette consumption increased by 23.4 percent during this period.

Between 1952 and 1962 there also occurred a substantial shift in advertising expenditures from regular to filter and menthol-filter cigarettes. In 1952, 2.8 percent of advertising expenditures in selected media were accounted for by filter and menthol-filter cigarettes. By 1962, that figure had increased to 65.5 percent. For the period 1952 to 1962, spending by cigarette manufacturers to advertise filter and menthol-filter cigarettes was probably in excess of $1 billion. During this same period, the share of advertising expenditures accounted for by regular cigarettes declined from 83.9 to 13.8 percent.

In 1962, total advertising expenditures by the six leading cigarette manufacturers in television, general magazines, newspapers, network radio, and outdoor media were $175 million. For all media, it is estimated, their expenditures were in excess of $200 million. A major development in cigarette advertising during the period 1952 to 1963 has been the increase in the use of television. Annual expenditures for network television increased from $25 million in 1952 to $89 million in 1963, or by about 250 percent. By 1963, total spending for network and spot television equalled $125 million. Today, television is the principal medium for the advertising of cigarettes.

The portrayal of the desirability of smoking is a characteristic of virtually every significant brand of cigarette. In part, such portrayal is accomplished by describing the pleasures of smoking; for example, Pall Mall advertising claims that "Pall Mall travels pleasure to you." It is also accomplished by the association of smoking with ideas and individuals worthy of emulation or likely to be emulated, so as to suggest that smoking is an important attribute of full personal success and development. For example, current cigarette advertising prominently associates smoking with romance, contains endorsements by persons in prestigious occupations, and identifies smoking with heroic conception of the cowboy. Our examination of the content of current cigarette advertising also indicates that claims or assurances related to health are prominent in the advertising of filter and menthol-filter brands. These claims and assurances vary in their explicitness, but they are sufficiently patent to compel the conclusion that much filter and menthol-filter advertising seeks to persuade smokers and potential smokers that smoking cigarettes is safe or not unhealthful, or that smoking the advertised brand is safer or less deleterious than smoking other brands or types of cigarettes.

2. The effect of cigarette advertising upon total cigarette consumption: No single factor probably accounts for the growth in cigarette consumption in recent years or for the variations in the rate of growth. There seems no doubt, however, that advertising has been important in the overall growth of the cigarette industry and is important today in determining total cigarette consumption and type and brand preference.

Prof. Neil Borden of the Harvard Business School, in his classic study, "The Economic Effects of Advertising" (1942), observed that "Without advertising, cigarette use would probably have grown; with advertising, the increase has been amazing" (p. 228). Professor Borden lists the following factors as influencing the growth of cigarette consumption since 1870:

1. Breakdown of prejudices and taboos: (a) Social, moral prejudices; (b) prejudice against women's usage.

2. War influence: (a) Smoking as a nervous release; (b) widened social contacts.

3. Changing living habits: (a) The quickened tempo of modern life conducive to use of a short smoke.

4. Low cost of cigarettes.

5. Increased income of population.

6. Advertising and aggressive selling. [Id., at 222.]

Professor Borden acknowledges that "It is impossible to set up any clear cause and effect relationship among so many variables of uncertain validity." (Ibid.) He concludes, however, that "advertising has been an important factor in speeding up a favorable trend of demand for cigarettes, a trend which has its roots in the changing habits of life and social attitudes arising from the whole complex of forces that is called social environment." (Id., at 227.) A similar view was stated also by Mr. George Washington Hill, former president of the American Tobacco Co. He said that, by advertising, "you don't benefit yourself most, I mean altogether. Of course, you benefit yourself more than the other fellow if you do a good job, but you help the whole industry if you do a good job." [42]

How has cigarette advertising contributed to maintaining and increasing total cigarette consumption? Major emphasis should be given to the magnitude of cigarette advertising expenditures. It is estimated that during the period of 1952 to 1962, the leading six cigarette manufacturers spent approximately $1.2 billion for television, newspaper, and general magazine advertising. Their total expenditures for all media may have been as high as $2 billion. This level of expenditure has made it possible for cigarette manufacturers year in and year out to bring home the desirability of smoking to virtually all Americans. The degree to which Americans are exposed to cigarette advertising is amply illustrated by the network television audience data analyzed earlier. During a single evening time period, for example, it is estimated that cigarette advertising reaches 38 percent of the U.S. population 18 years of age and over, 46 percent of the population 13 to 17, and 26 percent of the population 2 to 12.

Available data indicate that much of the increase in recent years in cigarette consumption has resulted from the increasing proportion of young persons, particularly females, who are becoming smokers. Other factors than advertising have probably contributed to the increase in smoking among younger persons, and particularly to the decline in the age by which substantial numbers of women become regular smokers. It is probable, however, that portrayal of the desirability of smoking in cigarette advertising has been a significant factor in increasing cigarette consumption by younger persons.

3. Effect of cigarette advertising upon type preference: The greatly increased popularity of filter and menthol-filter cigarettes is the outstanding phenomenon in cigarette consumption in the years since 1952. Between 1952 and 1963, filter and menthol-filter cigarette output increased from 5.2 billion units to almost 300 billion units. The output of regular cigarettes during this same period declined from 307.2 billion units to 109.3 billion units. Steadily mounting concern with the health hazards of smoking—a phenomenon parallel in time to the growth of filter and menthol-filter popularity—was a necessary condition for such changes to occur. (See e.g., Printers' Ink, Dec. 31, 1954, p. 27.) However, given the content of filter cigarette advertising, and given the fact that advertising expenditures in selected media for filter and menthol-filter cigarettes increased from $1.6 million in 1952 to $95.6 million in 1962, it would appear that the sufficient condition for this massive shift by American smokers to filter and menthol-filter cigarettes was that they were persuaded, by advertising, that filter and menthol-filter cigarettes were less hazardous to health than regular cigarettes. This conclusion is supported by the fact that filter and menthol-filter brands introduced after January 1, 1952, accounted for more than half of total cigarette consumption in 1963. This suggests that the absolute and relative increases in filter and menthol-filter output apparently did not result from a spontaneous decision by Americans to smoke such cigarettes.

The experience of the industry during the 3-year period 1953 to 1955 is particularly illuminating. In both 1953 and 1954, total and per capita consumption declined from the 1952 level. Total consumption declined 6.4 percent and per capita consumption declined 8.8 percent. The only factor that has been suggested, in explanation of these declines is the publicity given to the mounting evidence of the serious health hazards of cigarette smoking in this period. Cigarette manufacturers reacted to this decline in demand by increasing advertising expenditures in network television, general magazines, and newspapers by 35.3 percent; and by 1955, both per capita and total consumption of cigarettes showed increases above the levels prevailing in 1954.

It is advertising data by type of cigarette, however, that are most informative on the cigarette industry's response to the health "scare" and the concomitant consumption declines. Advertising expenditures for regular cigarettes increased during 1953, but decreased during 1954 and 1955. Advertising expenditures for king-size cigarettes increased from $7 million in 1952 to $21.5 million in 1955. Advertising expenditures for filter cigarettes, however, showed the greatest relative and absolute increases. In 1952, expenditures in selected media for filter cigarettes totaled $1.6 million; by 1954, they were $13.8 million; the 1955 total was $26.5 million. In 1952, filter cigarettes had accounted for 2.8 percent of advertising expenditures; by 1955, filter cigarettes accounted for 34.5 percent of total advertising expenditures. The reaction of the industry, therefore, to the 1953 and 1954 consumption declines primarily took the form of a substantial relative and absolute increase in its advertising expenditures for filter cigarettes. These efforts played a significant role in increasing filter output from 5.2 billion units in 1952 to 74.7 billion units in 1955.

The content of filter and menthol-filter advertising in recent years supports the view that cigarette advertising has been significantly responsible for increases in filter and menthol-filter cigarette consumption. Filter cigarettes have varied in the explicitness of their assurances of safety, but all have promised the consumer a measure of health protection. One cigarette, for example, is described as containing a filter with "the basic material science uses to purify air." Another cigarette claims it has the "deep-weave filter." Another cigarette advertises its "exclusive selectrate filter." Another cigarette claims that it has the "micronite" filter.

Menthol-filter cigarettes, as earlier described, are similarly advertised, but advertising for these cigarettes portrays smoking virtually as a form of refreshment. Thus, one brand is advertised as "The most refreshing smoke of all"; another is said to be "refreshing all day through." Many of the

[42] Quoted in Tennant, The American Cigarette Industry 137 (1950).

menthol-filter brands portray smoking in an idyllic outdoor environment—a setting that seems inconsistent with an inference of health hazards. For example, Salem, the leading menthol-filter brand, invites smokers to "step into the wonderful world of Salem cigarettes."

In conclusion, it would appear that cigarette advertising has been a significant factor in persuading smokers to buy filter and menthol-filter cigarettes. Filter and menthol-filter advertising has persuaded smokers that such cigarettes are at least relatively safe, and has thus had the effect of neutralizing much of the impact of the medical findings on the dangers of smoking; menthol-filter advertising has portrayed cigarette smoking as being refreshing, thereby reinforcing the impression that smoking such cigarettes is relatively safe. At the same time, increases in the level of advertising expenditures for filter and menthol-filter cigarettes, and the intensive marketing of new brands of such cigarettes since the early 1950's, indicate that cigarette manufacturers have sought to capitalize on the increasing medical evidence of the dangers of smoking to sell such cigarettes.

4. Cigarette advertising and young people: A particularly important consideration in this proceeding is the impact of cigarette advertising on young people. Available data on smoking patterns indicate that an increasing proportion of persons in younger age groups are becoming regular smokers. As shown in table 4, supra, among males 25 to 34 years of age as of February 1955, 61.4 percent had become regular smokers prior to the age of 21, and among females 25 to 34 years of age, 28.9 percent had become regular smokers prior to the age of 21. By contrast, among males and females 45 to 54, 51.2 and 7.5 percent, respectively, had become regular smokers prior to the age of 21.

The magnitude and pervasiveness of cigarette advertising are such that virtually all Americans, including most children, are continually exposed to the portrayal of the desirability of smoking and to assurances respecting the safety or healthfulness of cigarette smoking. Audience data for network television advertising indicate that substantial numbers of children under 18 years of age are exposed to such advertising. It was earlier estimated that during a single evening time period, 46 percent of the population 13 to 17 years of age, and 26 percent of the population 2 to 12 years of age, are exposed to cigarette advertising.[43]

IV. THE REQUIREMENTS OF THE FEDERAL TRADE COMMISSION ACT IN THE AREA OF CONSUMER PROTECTION

A. The evolution of the Federal Trade Commission Act

The Federal Trade Commission was established because it was widely agreed that judicial processes alone were not adequate to cope effectively with the problems of trade regulation in the farflung, diverse, and expanding American economy.[44] In proposing the creation of such a Commission, President Wilson stated:

"The opinion of the country would instantly approve of such a Commission. It would not wish to see it empowered to make terms with monopoly or in any sort to assume control of business, as if the Government made itself responsible. It demands such a Commission only as an indispensable instrument of information and publicity, as a clearinghouse for the facts by which both the public mind and the managers of great business undertakings should be guided, and as an instrumentality for doing justice to business where the processes of the courts or the natural forces of correction outside the courts are inadequate to adjust the remedy to the wrong in a way that will meet all the equities and circumstances of the case" (51 CONGRESSIONAL RECORD 1963 (1914)).

And Louis D. Brandeis, with Wilson the leading proponent of the Trade Commission idea, later described the genesis of the Commission in similar words: "It is a new device in administrative machinery, introduced by Congress in the year 1914, in the hope thereby of remedying conditions in business which a great majority of the American people regarded as menacing the general welfare, and which for more than a generation they had vainly attempted to remedy by the ordinary process of law." [45]

The framers of the Trade Commission Act of 1914 were primarily concerned with what they felt had been the inadequacy of the Federal courts' enforcement of the Sherman Act.[46] Both the business community, which felt that such enforcement had created a climate of legal uncertainty in which effective business planning was impossible, and those who felt that the Federal judiciary had been unsympathetic to the high purposes of the act, concurred in the belief that the task of maintaining competitive processes in the economy could perhaps be better performed by an expert, nonjudicial body, equipped with the distinctive and flexible powers of an independent administrative agency, along the lines of the highly successful Interstate Commerce Commission. (See Henderson, op. cit. supra note 44, at 21–23.)

But the framers of the Trade Commission Act were also concerned with trade practices contrary to the public interest on other grounds besides a tendency to monopoly. Here, too, it was felt, the traditional judicial processes had proved inadequate to the needs of the time. (See generally Handler, "The Jurisdiction of the Federal Trade Commission Over False Advertising," 31 Col. L. Rev. 527 (1931).) For the existing law of unfair competition afforded incomplete protection to competitors and consumers against fraudulent, oppressive and unfair business practices.[47] It has, of course, long been settled that the Trade Commission Act embraces not only those trade practices that restrict competition or are conducive to monopoly, but all other practices contrary to public policy in the field of trade regulation.[48]

The task confided to the Trade Commission was altogether more complicated than merely policing the business community and punishing law violators. If the problems of trade regulation had been considered amenable to the conventional methods of eradicating undesirable conduct, a quite different statutory approach would probably have been selected. Congress would have enumerated the specific practices or methods sought to be proscribed and would have endowed the enforcement agency with the power to apply fully effective punitive or remedial sanctions. It did neither. It conferred on the Commission a deliberately comprehensive mandate "to prevent * * * unfair methods of competition in commerce" (Federal Trade Commission Act, sec. 5(a)(6), 15 U.S.C., sec. 45(a)(6)) without further specification of the forbidden conduct, and gave the Commission very broad powers of investigation and inquiry (see, e.g., sec. 6(b) of the act). The Commission could, after a hearing, issue an order to cease and desist; but such an order, even if affirmed by a Federal court of appeals on judicial review, would not be actually binding on the respondent until enforced by a court of appeals in a separate proceeding.[49] Thus, a Commission cease-and-desist order originally was "not self-executory. Standing alone it is only informative and advisory. The Commission cannot enforce it." [50]

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[43] These data do not include spot television advertising.

[44] On the background of the Federal Trade Commission Act, see Henderson, The Federal Trade Commission, chs. I, VI (1924); Thornton, Combinations in Restraint of Trade, ch. XLVI (1928); Blaisdell, The Federal Trade Commission 4–8 (1932); Montague, "Unfair Methods of Competition," 25 Yale L. J. 20 (1915); Rublee, "The Original Plan and Early History of the Federal Trade Commission," 11 Acad. Pol. Sci. Proc. 666 (1926); Baker & Baum, "Section 5 of the Federal Trade Commission Act: A Continuing Process of Redefinition," 7 Vill. L. Rev. 517–43 (1962); *F.T.C.* v. *Gratz*, 253 U.S. 421, 432–37 (1920) (dissenting opinion of Mr. Justice Brandeis).

[45] *F.T.C.* v. *Gratz*, 253 U.S. 421, 432 (1920) (dissenting opinion). As one of the leading authorities on the Trade Commission Act has stated, "The very creation of the Commission betokened a congressional dissatisfaction with the procedures and techniques of the judicial system; otherwise the task of enforcement could have been delegated to the courts and the Department of Justice." Handler, "Unfair Competition," 21 Iowa L. Rev. 175, 251 (1936).

[46] See, e.g., 51 CONGRESSIONAL RECORD 13047 (1914) (remarks of Senator Cummins); 51 CONGRESSIONAL RECORD 8977 (1914) (remarks of Congressman Murdock). The day after the Supreme Court decided *Standard Oil Co.* v. *United States*, 221 U.S. 1 (1911), in which the "Rule of Reason" in Sherman Act interpretation was announced, Senator Newlands proposed what later became the Trade Commission:

"The question therefore presents itself to us whether we are to permit in the future the administration regarding these great combinations to drift practically into the hands of the courts and subject the question as to the reasonableness of unreasonableness of any restraint upon trade * * * to the varying judgments of different courts upon the facts and the law, or whether we will organize as the servant of Congress, an administrative tribunal similar to the Interstate Commerce Commission, with powers of recommendation, with powers of condemnation, with powers of correction similar to those enjoyed by the Interstate Commerce Commission over interstate transportation." 47 CONGRESSIONAL RECORD 1225 (1911); see id., at 1227, 2444, 2619–21; S. Rep. No. 1326, 62d Cong., 3d Sess. (1913).

Senators Newlands and Cummins, the most outspoken opponents of the handling of the Sherman Act by the courts and the Attorney General, played a leading role in the framing of the Trade Commission Act.

[47] In the famous case of *American Washboard Co.* v. *Saginaw Mfg. Co.*, 103 Fed. 281 (6th Cir. 1900), it had been held that injury to the public was not a ground on which an action for unfair competition could be maintained. One of the purposes of the Federal Trade Commission Act was to close the gap in trade regulation law opened up by that decision. *Royal Baking Co.* v. *F.T.C.*, 281 Fed 744, 752 (2d Cir. 1922); Nims, Unfair Competition and Trademarks § 8 (4th ed. 1947). See *Sears, Roebuck & Co.* v. *F.T.C.*, 258 Fed. 307 (7th Cir. 1919); *Curtis Pub. Co.* v. *F.T.C.*, 270 Fed. 881, 908 (3d Cir. 1921), aff'd, 260 U.S. 568 (1923).

[48] E.g., *F.T.C.* v. *Winsted Hosiery Co.*, 258 *U.S.* 483 (1922); *F.T.C.* v. *R. F. Keppel & Bro, Inc.*, 291 U.S. 304 (1934); *F.T.C.* v *Raladam Co.*, 283 U.S. 643, 651 (1931).

[49] This "three bites at the apple" procedure was changed in 1938. See Federal Trade Commission Act, § 5, as amended by Wheeler-Lea Act, § 3, 52 Stat. 111, as amended, 15 U.S.C. § 45(e), making Commission cease-and-desist orders final and binding without the necessity of a separate enforcement proceeding.

[50] *F.T.C.* v. *Gratz*, 253 U.S. 421, 432 (1920) (dissenting opinion of Mr. Justice Brandis). See *New Jersey Wood Finishing Co.* v. *Minnesota Mining & Mfg. Co.*, —— F. 2d —— (3d Cir. 1964).

The Commission was not intended to be a simple enforcement agency, charged with preventing well-understood, clearly defined, unlawful conduct. Its principal function was, through the use of its broad powers of investigation and inquiry, and through the accumulation of expert knowledge and experience in the field of trade regulation, to explore, identify, and define those competitive practices that should be forbidden as unfair because contrary to public policy. The Commission was expected to proceed not only against practices forbidden by statute or common law, but also against practices not previously considered unlawful, and thus to create a new body of law—a law of unfair competition adapted to the diverse and changing needs of the complex and evolving modern American economy.[51]

In an early case it was stated that the standard of unfairness in section 5 was "clearly inapplicable to practices never heretofore regarded as opposed to good morals because characterized by deception, bad faith, fraud, or oppression" (*F.T.C.* v. *Gratz*, 253 U.S. 421, 427 (1920)).

However, the Supreme Court has many times rejected a static conception of the Trade Commission's responsibilities. As early as 1922, in *F.T.C.* v. *Winsted Hosiery Co.*, 258 U.S. 483, the Court held that the deceptive mislabeling of consumer goods was forbidden by the Federal Trade Commission Act in circumstances where no common law or statutory violation could have been demonstrated. (See also *Sears, Roebuck & Co.* v. *F.T.C.*, 258 Fed. 307 (7th Cir. 1919).) The subsequent development of a comprehensive body of law by the Commission relating to deceptive practices, a development which has frequently been approved by the Supreme Court (see, e.g., *A. L. A. Schechter Poultry Corp.* v. *United States*, 295 U.S. 495, 532–533 (1935); id., at 552 (concurring opinion of Mr. Justice Cardozo)), demonstrates that the Commission's authority is not confined to practices already forbidden by statute or common law.[52]

The course of decisions cutting back from the extreme implications of the Gratz dictum culminated in *F.T.C.* v. *R. F. Keppel & Bro., Inc.*, 291 U.S. 304 (1934) (see also *F.T.C.* v. *Raladam Co.*, 283 U.S. 643 (1931); *A. L. A. Schechter Poultry Corp.* v. *United States, supra*), the leading case defining the Commission's powers and responsibilities under its organic act. The Court stated in Keppel:

"We cannot say that the Commission's jurisdiction extends only to those types of practices which happen to have been litigated before this Court.

"Neither the language nor the history of the act suggests that Congress intended to confine the forbidden methods to fixed and unyielding categories. The common law afforded a definition of unfair competition and, before the enactment of the Federal Trade Commission Act, the Sherman Act had laid its inhibition upon combinations to restrain or monopolize interstate commerce which the courts had construed to include restraints upon competition in interstate commerce. It would not have been a difficult feat of draftsmanship to have restricted the operation of the Trade Commission Act to those methods of competition in interstate commerce which are forbidden at common law or which are likely to grow into violations of the Sherman Act, if that had been the purpose of the legislation.

"The act undoubtedly was aimed at all the familiar methods of law violation which prosecutions under the Sherman Act had disclosed. But as this Court has pointed out it also had a broader purpose. As proposed by the Senate Committee on Interstate Commerce and as introduced in the Senate, the bill which ultimately became the Federal Trade Commission Act declared unfair competition to be unlawful. But it was because the meaning which the common law had given to those words was deemed too narrow that the broader and more flexible phrase "unfair methods of competition" was substituted. Congress, in defining the powers of the Commission, thus advisedly adopted a phrase which, as this Court has said, does not "admit of precise definition but the meaning and application of which must be arrived at by what this Court elsewhere has called the gradual process of judicial inclusion and exclusion." (291 U.S., at 309–12.)

The Court, describing the Commission's role in elaborating the content of the act, went on to state:

"While this Court has declared that it is for the courts to determine what practices or methods of competition are to be deemed unfair, *Federal Trade Comm'n* v. *Gratz, supra*, in passing on that question the determination of the Commission is of weight. It was created with the avowed purpose of lodging the administrative functions committed to it in "a body specially competent to deal with them by reason of information, experience, and careful study of the business and economic conditions of the industry affected," and it was organized in such a manner, with respect to the length and expiration of the terms of office of its members, as would "give to them an opportunity to acquire the expertness in dealing with these special questions concerning industry that comes from experience." If the point were more doubtful than we think it, we should hesitate to reject the conclusion of the Commission, based as it is upon clear, specific, and comprehensive findings supported by evidence." (Id., at 314.)

The principle that emerges from Keppel, from the decisions that both precede and follow it, from the legislative history and background of the Trade Commission Act, and from the Commission's 50 years of efforts to implement its mandate from Congress, is that the Commission's responsibilities are not limited to determining whether particular practices fall within preexisting categories of illegality and entering cease-and-desist orders against the guilty parties accordingly. It is also to determine, within broad limits, what kinds of trade practices should be forbidden in the public interest because they are unfair or deceptive and thus injurious to competitors or the consuming public.

Prior to the 1938 Wheeler-Lea amendments to the Trade Commission Act, the Supreme Court held that the Commission's jurisdiction over unfair trade practices was limited to cases in which such a practice was used as a weapon for diverting business from, or injuring or impairing the business of, a competitor. (*F.T.C.* v. *Raladam Co., supra.*) It was recognized that a method of competition might be unlawful under section 5 because it deceived consumers, even though it was not monopolistic or anticompetitive, but it was thought that deceptive acts or practices could not be suppressed under the Trade Commission Act if they were not utilized to confer a competitive advantage upon the respondent. The 1938 amendments, in expressly making "unfair or deceptive acts or practices in commerce," in addition to "unfair methods of competition in commerce," subject to the Commission's jurisdiction, were intended to broaden the Commission's jurisdiction to embrace deceptive acts or practices in situations where no effect on competition or competitors could be shown.[53] It should be noted that the amendments do not confine the Commission's jurisdiction to deceptive acts or practices, on the one hand, and monopolistic or anticompetitive methods, on the other. In addition to forbidding deceptive acts or practices and unfair methods of competition, section 5, as amended, forbids unfairs acts or practices.

The purpose of the amendments was to make clear that the protection of the consumer from unfair trade practices, equally with the protection of competitors and the competitive process, is a concern of public policy within the scope of responsibility of the Federal Trade Commission. The legislative history of the Wheeler-Lea amendments to section 5 discloses explicit and substantial concern with the exploitation of consumers through deceptive, unethical or otherwise unfair marketing methods.[54] The Keppel decision was mentioned a number of times in the deliberations,[55] and its broad and far-reaching conception of the Commission's powers and duties in the field of unfair trade practices received Congressional approval in the enactment of the Wheeler-Lea amendments.

Another result of the Wheeler-Lea Act was the enlargement of the Federal Trade Commission Act to include new provisions (secs. 12–17) dealing specifically with the false advertising of foods, drugs, devices, and cosmetics. Since 1939, moreover, Congress has successively augmented the Commission's jurisdiction in the area of consumer protection several times by the enactment of statutes dealing in detail with particular industries.[56] The public policy declared by Congress in the food and drug sections of the Wheeler-Lea Act and in the specialized consumer-protection statutes is relevant in

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[51] "Instead of undertaking to define what practices should be deemed unfair, as had been done in earlier legislation, the act left the determination to the Commission. Experience with existing laws had taught that definition, being necessarily rigid, would prove embarrassing and, if rigorously applied, might involve great hardship. * * * Furthermore, an enumeration, however comprehensive, of existing methods of unfair competition must necessarily soon prove incomplete, as with new conditions constantly arising novel unfair methods would be devised and developed." 253 U.S., at 436–37. As stated by Senator Cummins in the debates on the trade commission proposal, "the words 'unfair competition' can grow and broaden and mold themselves to meet circumstances as they arise" 51 CONGRESSIONAL RECORD 14003 (1914). See, e. g., *F.T.C.* v. *R. F. Keppel & Bro., Inc.*, 291 U.S. 304 (1934); *F.T.C.* v. *Algoma Lumber Co.*, 291 U.S. 67 (1934).

[52] Similarly, in the Commission's antitrust activities under the Trade Commission Act it has become established that the Commission is not limited to forbidding conduct already forbidden by the Sherman or Clayton Acts. See, e.g., *F.T.C.* v. *Motion Picture Advertising Serv. Co.*, 344 U.S. 392 (1953); *F.T.C.* v. *Cement Institute*, 333 U.S. 683 (1948); *Grand Union Co.* v. *F.T.C.*, 300 F. 2d 92 (2d Cir. 1962); *Mytinger & Casselberry, Inc.* v. *F.T.C.*, 301 F. 2d 534 (D.C. Cir. 1962).

[53] S. Rep. No. 221, 75th Cong., 1st sess. 3 (1937); Handler, "The Control of False Advertising Under the Wheeler-Lea Act," 6 Law & Contemp. Prob. 91, 96 (1939).

[54] The test of legality under Section 5 had to be amended, it was stated, "to stop the exploitation or deception of the public." S. Rep. No. 1705, 74th Cong., 2d Sess. 3 (1936). See also S. Rep. No. 221, 75th Cong., 1st Sess. 3 (1937). Cf. H.R. Rep. No. 1613, 75th Cong., 1st Sess. 3 (1937).

[55] See, e.g., "Hearings on S. 3744 before the H. Comm. on Interstate and Foreign Commerce," 74th Cong., 2d Sess. 85, 89–90 (1936); "Hearing on H.R. 3143 before the H. Comm. on Interstate and Foreign Commerce," 75th Cong., 1st Sess. 14, 17, 42 (1937).

[56] Wool Products Labeling Act of 1939, 54 Stat. 1128, 15 U.S.C. §§ 68–68j; Fur Products Labeling Act, 65 Stat. 175, 15 U.S.C. §§ 69–69j; Flammable Fabrics Act, 67 Stat. 111, 15 U.S.C. §§ 1191–1200; Textile Fiber Products Identification Act, 72 Stat. 1717, 15 U.S.C. §§ 70–70k.

determining the requirements of the more general provisions of section 5. The food and drug sections express a congressional determination that the lawful scope of a trade practice may depend in significant part upon the nature of the product involved, and its relationship to human health and safety, while the specialized statutes express a determination that, in particular circumstances, consumer protection may require not only that the seller refrain from affirmative misrepresentation, but also that he make positive and detailed disclosure of material facts concerning his product.

B. The present law of consumer protection under the Federal Trade Commission Act

1. The test of legality under section 5: In the Keppel decision the Supreme Court described the standard of lawfulness under section 5 of the Federal Trade Commission Act in language similar to that used by the Court in reference to the due process clause of the 14th amendment.[57] Section 5, indeed, bears much the same relation to the community's evolving standards of honest, fair and ethical conduct in business as the due process clause bears to the community standards of fairness and justice in governmental action. In the words of Judge Learned Hand, describing the Commission's power in the field of deceptive and unfair practices:

"The Commission has a wide latitude in such matters; its powers are not confined to such practices as would be unlawful before it acted; they are more than procedural; its duty in part at any rate, is to discover and make explicit those unexpressed standards of fair dealing which the conscience of the community may progressively develop." [58]

These judicial expressions accord fully with the original understanding of the framers of the Trade Commission Act. "In section 5 of the Trade Commission Act, it is obvious that no specific rules of conduct were prescribed. The section stated a general ethical and economic principle, and relied upon the course of administration and judicial decision to give it content." [59] It is clear that, at least in the field of advertising or labeling, any practice in commerce that exploits or oppresses the consuming public may be prohibited by the Commission under section 5 even if there is no specific precedent for its prohibition. And whether a practice should be forbidden is a question committed to the Commission's sound discretion. As Keppel and many other decisions make clear, the determination of the substantive scope of section 5 is to a considerable extent the Commission's own responsibility.[60]

2. Deceptive acts or practices: Advertising that prevents the consumer from making a free and informed choice of what or whose products to buy by misrepresenting facts that the consumer considers material to his decision injures honest competitors and the consuming public. The body of law on deceptive acts and practices built up by the Commission and the courts in 50 years of law enforcement proscribes such conduct in all its various manifestations. The controlling legal standard is a simple one: If the seller attempts to deceive the consumer in any particular which could influence the latter's buying choice—if, in other words, he uses any false inducement—he has committed a deceptive act or practice in violation of section 5.[61]

In the application of this standard to the many different factual patterns that have arisen in cases before the Commission, certain principles have become well established. One is that under section 5 actual deception of particular consumers need not be shown. All that need be shown, to support a finding of illegality, is that the challenged representation has a substantial capacity or tendency to deceive.[62] It has been held many times (see note 61, supra) that the test of unlawful deception under section 5 is whether the advertisement in question is likely to deceive a substantial segment of the purchasing public, or of that part of the purchasing public to whom the representation is directed, and that this likelihood may be inferred by the Commission, in the exercise of its accumulated administrative knowledge and experience, on the basis of the challenged advertisement itself.[63]

The traditional common law distinction between misrepresentation of fact and of opinion—the latter not being considered actionable [64]—has to a large extent been rejected by decisions under the Trade Commission Act. An advertiser may no longer offer his unsubstantiated opinion concerning the quality or merits of his product if he does so in such a way that the consumer is induced to rely on his opinion.[65] While the courts still make occasional reference to the fact-opinion distinction (see, e.g., *Koch* v. *F.T.C.*, 206 F. 2d 311, 316–317 (6th Cir. 1953)), they recognize no privilege for statements of opinion in advertising, and invariably regard as a deceptive and unlawful representation any opinion stated in such a manner as to mislead the consumer.[66] The traditionally broad scope of permissible "puffing" has been narrowed to include only expressions that the consumer clearly understands to be pure sales rhetoric on which he should not rely in deciding whether to purchase the seller's product.[67] The test, thus, is not whether a representation is intended as a statement of fact or one of opinion, but whether it is likely to mislead the consumer.[68]

The loosening of restrictive common law doctrine is also reflected in the expanded concern under the Trade Commission Act with advertising in which deception is present in a form other than a false statement. The act's objective in the field of advertising and labeling—to protect the consumer from being misled in his choice of goods and services to buy—is flouted no less by false and misleading implications, suggestions or insinuations or, as we are about to consider, by failure to disclose material facts, than by explicit misstatements. As anyone who reads newspapers or magazines, or watches television or listens to the radio, well knows, modern advertising relies to a large extent on suggestions and associations, and other forms of indirection and soft sell, as well as upon explicit claims for the advertised products. Advertisers have found that the explicit claim is not the only effective method of selling their products to the consumer. Since other methods are widely used, it is the Commission's plain duty to require that they be used honestly.

It is now well settled that section 5 proscribes "any advertising matter whatsoever which creates a misleading impression in the

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[57] *F.T.C.* v. *R. F. Keppel & Bro., Inc.*, 291 U.S. 304, 312 (1934), citing *Davidson* v. *New Orleans*, 96 U.S. 97, 104 (1878). See also *F.T.C.* v. *Raladam Co.*, 283 U.S. 643, 648 (1931).

[58] *F.T.C.* v. *Standard Educ. Soc.*, 86 F. 2d 692, 696 (2d Cir. 1936), rev'd on other grounds, 302 U.S. 112 (1937). See also *F.T.C.* v. *Raladam Co.*, 283 U.S. 643, 651 (1931). Cf. *F.T.C.* v. *Klesner*, 280 U.S. 19, 27–28 (1929) (opinion by Mr. Justice Brandeis).

[59] Henderson, op. cit. supra note 44, at 36. "Courts have always recognized the customs of merchants, and it is my impression that under this act the Commission and the courts will be called upon to consider and recognize the fair and unfair customs of merchants, manufacturers and traders, and probably prohibit many practices and methods which have not heretofore been clearly recognized as unlawful." 51 CONGRESSIONAL RECORD 11593 (1914) (remarks of Senator Saulsbury). "[I]t would be utterly impossible for Congress to define the numerous practices which constitute unfair competition and which are against good morals in trade, for we are beginning to realize that there is a standard of morals in trade or that there ought to be." 51 CONGRESSIONAL RECORD 11084 (1914) (remarks of Senator Newlands). See Handler, "The Jurisdiction of the Federal Trade Commission Over False Advertising." 31 Col. L. Rev. 527, 532–35 (1931); *F.T.C.* v. *R. F. Keppel & Bro., Inc.*, *supra*, 291 U.S., at 310–12, nn. 41–43.

[60] See, e.g., decisions cited in note 58, supra; *F.T.C.* v. *Algoma Lumber Co.*, 291 U.S. 67 (1934); *F.T.C.* v. *Royal Milling Co.*, 288 U.S. 212 (1933); *Hastings Mfg. Co.* v. *F.T.C.*, 153 F. 2d 253 (6th Cir. 1946).

[61] See, e.g., *F.T.C.* v. *Raladam Co.*, 316 U.S. 149 (1942); *F.T.C.* v. *Royal Milling Co.*, 288 U.S. 212, 216–17 (1933); *F.T.C.* v. *Algoma Lumber Co.*, 291 U.S. 67, 78 (1934); *F.T.C.* v. *Standard Educ. Soc.*, 302 U.S. 112, 116–17 (1937); *L. Heller & Son, Inc.* v. *F.T.C.*, 191 F. 2d 954 (7th Cir. 1951). See Barnes, "False Advertising," 23 Ohio St. L. J. 597 (1962); Note, "The Regulation of Advertising," 56 Col. L. Rev. 1018, 1025–34 (1956).

[62] See, e.g., *F.T.C.* v. *Algoma Lumber Co.*, *supra*, at 81; *F.T.C.* v. *Winsted Hosiery Co.*, 258 U.S. 483, 494 (1922); *F.T.C.* v. *Balme*, 23 F. 2d 615, 620 (2d Cir. 1928); *Gimbel Bros., Inc.* v. *F.T.C.*, 116 F. 2d 578 (2d Cir. 1941); *Bockenstette* v. *F.T.C.*, 134 F. 2d 369, 371 (10th Cir. 1943); *Progress Tailoring Co.* v. *F.T.C.*, 153 F. 2d 103, 105 (7th Cir. 1946).

[63] *E. F. Drew & Co.* v. *F.T.C.*, 235 F. 2d 735 (2d Cir. 1956); *De Gorter* v. *F.T.C.*, 244 F. 2d 270, 283 (9th Cir. 1957); *Carter Products, Inc.* v. *F.T.C.*, 268 F. 2d 461, 493–95 (9th Cir. 1959); *Royal Oil Corp.* v. *F.T.C.*, 262 F. 2d 741, 745 (4th Cir. 1959); *New Am. Library of World Literature* v. *F.T.C.*, 213 F. 2d 143 (2d cir. 1954); *Zenith Radio Corp.* v. *F.T.C.*, 143 F. 2d 29 (7th Cir. 1944); *Hillman Periodicals* v. *F.T.C.*, 174 F. 2d 122 (2d Cir. 1949).

[64] See Handler, "The Control of False Advertising Under the Wheeler-Lea Act," 6 Law & Contemp. Prob. 91, 92–93 (1939); Handler, "Unfair Competition," 21 Iowa L. Rev. 175, 195, 230 (1936). Some early decisions under Section 5 continued to draw a distinction between fact and opinion. See, e.g., *Raladam Co.* v. *F.T.C.*, 42 F. 2d 430 (6th Cir. 1930), aff'd on other grounds, 283 U.S. 643 (1931). But see *E. Griffiths Hughes, Inc.* v. *F.T.C.*, 77 F. 2d 886 (2d Cir. 1935).

[65] *Feil* v. *F.T.C.*, 285 F. 2d 879, 896–97 (9th Cir. 1960); Barnes, "False Advertising," 23 Ohio St. L. J. 597, 646 (1962). Cf. Handler, "The Control of False Advertising Under the Wheeler-Lea Act," *supra* note 64, at 100–01.

[66] See, e.g., *Koch* v. *F.T.C.*, *supra*; *Procter & Gamble Co.* v. *F.T.C.*, 11 F. 2d 47 (6th Cir. 1926); *Wybrant System Products Corp.* v. *F.T.C.*, 266 F. 2d 571 (2d Cir. 1959) (*per curiam*); *Erickson Hair & Scalp Specialists* v. *F.T.C.*, 272 F. 2d 318 (7th Cir. 1959); *Aronberg* v. *F.T.C.*, 132 F. 2d 165 (7th Cir. 1942). Cf. 21 U.S.C. § 321(n) (Federal Food and Drug Act).

[67] Compare *Gulf Oil Corp.* v. *F.T.C.*, 150 F. 2d 106, 109 (5th Cir. 1945); *Steelco Stainless Steel, Inc.* v. *F.T.C.*, 187 F. 2d 693, 697–98 (7th Cir. 1951); *Goodman* v. *F.T.C.*, 244 F. 2d 584 (9th Cir. 1957); *Colgate-Palmolive Co.*, 59 F.T.C. 1452, 1469 (1961), rev'd on other grounds, 310 F. 2d 89 (1st Cir. 1962); and Prosser, Torts, § 90, p. 557 (2d ed. 1955), with *Kidder Oil Co.* v. *F.T.C.*, 117 F. 2d 892 (7th Cir. 1941); H.R. Rep. No. 1613, 75th Cong., 1st Sess. 4 (1937).

[68] A related principle is that a deceptive representation cannot be defended on the ground of the advertiser's good faith or honest belief in the truth of the representation. See, e.g., *Gimbel Bros., Inc.* v. *F.T.C.*, 116 F. 2d 578 (2d Cir. 1941); *Feil* v. *F.T.C.*, 285 F. 2d 879 (9th Cir. 1960).

mind of the ordinary purchaser," [69] for "The skillful advertiser can mislead the consumer without misstating a single fact. The shrewd use of exaggeration, innuendo, ambiguity, and half-truth is more efficacious from the advertiser's standpoint than factual assertions. * * * An advertisement may be deemed misleading even though the statements of fact it contains are not in and of themselves deceptive. The statutory ban applies to that which is suggested as well as that which is asserted." Handler, "The Control of False Advertising Under the Wheeler-Lea Act," supra note 64, at 99, 102. The decisions applying this principle are legion.[70]

Finally, it is well settled that whether an advertisement represents an objective quality of the product or some other, extrinsic factor important to the consumer (e.g., the business status of the advertiser, *F.T.C.* v. *Royal Milling Co.*, 288 U.S. 212 (1933), or whether the product is new or reprocessed, *Mohawk Refining Co.* v. *F.T.C.*, 263 F. 2d 818 (3d Cir. (1959)) is immaterial (*F.T.C.* v. *Algoma Lumber Co.*, 291 U.S. 67 (1934)), since "the public is entitled to get what it chooses" (id., at 78).

We have briefly reviewed some of the better-known principles governing deceptive advertising under Section 5 in order to demonstrate that the standard of lawfulness is a simple, realistic and commonsense one. The application of the standard to a particular advertisement challenged under section 5 of the Trade Commission Act ordinarily requires the answering of three questions: What is the probable impression of the advertisement on the average consumer to whom it is directed? Is that impression true or false? Is it likely to affect the average consumer in deciding whether to purchase the advertised product—is there a material deception, in other words? [71] These are questions of fact, not law.[72]

3. Failure to disclose material facts: An advertiser's failure to disclose material facts in circumstances where the effect of nondisclosure is to deceive a substantial segment of the purchasing public is fully equivalent to deception accomplished through misleading statements or suggestions. "To tell less than the whole truth is a well-known method of deception." *P. Lorillard Co.* v. *F.T.C.*, 186 F. 2d 52, 58 (4th Cir. 1950).)

For example, if a seller has created in the minds of consumers a false impression of the quality or merits of his product, the Commission may enter an order not only forbidding the deceptive advertising, but in addition requiring the seller to make affirmative disclosure in all future advertising in order to correct the false impression created by his deceptive conduct. E.g., *Haskelite Mfg. Co.* v. *F.T.C.*, 127 F. 2d 765 (7th Cir. 1942).[73] Such additional relief, necessary in order to cure fully the ill effects of the seller's past unlawful conduct, could be continued at least until the false impression in the public mind had been dissipated by a period of honest advertising.

A requirement of disclosure may also be appropriate in the light of affirmative claims or representations, not false or deceptive in themselves, made by the seller. Such a principle is expressly stated in section 15 of the Federal Trade Commission Act with respect to the advertising of foods, drugs, devices, and cosmetics, but it has been applied in section 5 cases as well.[74] Thus the Old Gold case (*P. Lorillard Co.* v. *F.T.C.*, 186 F. 2d 52 (4th Cir. 1950)), the respondent had advertised that a Reader's Digest survey had found its cigarettes to be lowest in tar and nicotine content. This was a true statement of the findings of the survey, but without additional disclosure the statement had misleading implications. The advertisement implied that respondent's cigarettes were less harmful than competing brands having higher tar and nicotine contents. But the survey had concluded that no cigarettes, including respondent's, had a sufficiently low tar and nicotine content to be significantly less harmful than other cigarettes. Respondent failed to disclose this qualifying fact, and thereby failed to correct the false impression created by its literally true representation. This was a deceptive half-truth and clearly unlawful.

Even if no affirmative representation is made, nondisclosure may constitute actionable deception.[75] The Commission has, for example, brought a number of proceedings against sellers who fail to disclose the country of origin of their products. Suppose that the consumer of a particular product both prefers the domestic product and believes, in the absence of an affirmative statement to the contrary, that the product is domestic; in such a case the seller of the foreign substitute who fails to disclose its foreign origin has deceived the consumer.[76] Another line of nondisclosure cases under section 5 involves hazardous commodities.[77] Suppose that a seller advertises a silver polish, and while he does not claim that the polish is safe for ordinary use, neither does he warn that it is dangerous; but in fact the fumes from the polish are dangerous to health or safety even under conditions of normal use. Since the consumer's normal expectation is that in the absence of any warning to the contrary such a product can be used safely, he is likely to be deceived if the product is dangerous and the warning is omitted.

The principle crystallized in these decisions is that section 5 forbids sellers to exploit the normal expectations of consumers in order to deceive just as it forbids sellers to create false expectations by affirmative acts. The nature, appearance or intended use of a product may create an impression in the mind of the consumer—for example, that it is made in the United States of America, or that it is silk, or that it is safe—and if the impression is false, and if the seller does not take adequate steps to correct it, he is responsible for an unlawful deception.

The Commission's formal proceedings under section 5 in the area of "pure" failure to disclose (i.e., where no affirmative representations have been made by the seller) have involved labeling more frequently than advertising. Orders requiring affirmative disclosure in advertising as well as labeling have, however, been entered in a number of cases; [78] and the principle of deceptive non-

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[69] Handler, "The Control of False Advertising Under the Wheeler-Lea Act," supra, note 64, at 102. Cf. *F.T.C.* v. *National Health Aids, Inc.*, 108 F. Supp. 340 (D. Md. 1952); *People* v. *Minjac Corp.*, 4 N.Y. 2d 320, 151 N.E. 2d 180, 175 N.Y.S. 2d 16 (1958).

[70] See, e.g., *D. D. D. Corp.* v. *F.T.C.*, 125 F. 2d 679 (7th Cir. 1942); *Aronberg* v. *F.T.C.*, 132 F. 2d 165 (7th Cir. 1942); *Sebrone* v. *F.T.C.*, 135 F. 2d 676, 679 (7th Cir. 1943); *Caldwell* v. *F.T.C.*, 111 F. 2d 889 (7th Cir. 1940); *Parker Pen Co.* v. *F.T.C.*, 159 F. 2d 509 (7th Cir. 1946); *C. Howard Hunt Pen Co.* v. *F.T.C.*, 197 F. 2d 273 (3d Cir. 1952); *Ford Motor Co.* v. *F.T.C.*, 120 F. 2d 175 (6th Cir. 1941); *P. Lorillard Co.* v. *F.T.C.*, 186 F. 2d 52, 58 (4th Cir. 1950); *Charles of the Ritz Dist. Corp.* v. *F.T.C.*, 143 F. 2d 676, 679, (2d Cir. 1944); *Kalwajtys* v. *F.T.C.*, 237 F. 2d 654, 656 (7th Cir. 1956).

[71] The last of these questions is ordinarily easily answered when there is an affirmative representation of some sort, for "If a statement is important enough to be included in an advertisement, it is important enough to be true." Handler, *supra* note 69, at 98. See Note, "The Regulation of Advertising," 56 Col. L. Rev. 1018, 1032 (1956).

[72] See, e.g., *Carter Products, Inc.* v. *F.T.C.*, 268 F. 2d 461, 496 (9th Cir. 1959); Barnes, *supra* note 65, at 655. See also *Gulf Oil Corp.* v. *F.T.C.*, 150 F. 2d 106, 108 (5th Cir. 1945).

[73] "The examiner's order, on this phase of the case, simply prohibits respondents from representing 'that their watches are manufactured in their entirety in the United States.' This prohibition will not suffice to assure discontinuance of the deception found. As we have pointed out, the name Waltham, in part through respondents' own efforts, has come to be associated by the public with entirely American-made watches. Deception of the public can be avoided only by requiring respondents, wherever they use the name 'Waltham' in the advertisement or labeling of their watches, to disclose, clearly and prominently, the foreign origin of any of the components thereof. Respondents should be prohibited from using the term 'American,' or any reference to 'Waltham,' in any manner or context suggesting that the watches which they sell under the Waltham name are made in the United States. To provide effective relief these provisions are necessary at least until such time as the harmful effects of respondents' deceptive advertising have been erased. If and when this has been accomplished, the Commission will entertain any application for such modification as may then be appropriate." *Waltham Precision Instrument Co.*, F.T.C. Docket 6914 (decided July 20, 1962), pp. 8–9, aff'd, — F. 2d — (7th Cir. 1964). Cf. *Rudolph R. Siebert Co.*, 49 F.T.C. 1418 (1953).

[74] See. e.g., *Gimbel Bros., Inc.* v. *F.T.C.*, 116 F. 2d 578 (2d Cir. 1941); *Royal Baking Powder Co.* v. *F.T.C.*, 281 Fed. 744 (2d Cir. 1922); *Allen B. Wrisley Co.* v. *F.T.C.*, 113 F. 2d 437 (7th Cir. 1940); *Clinton Watch Co.* v. *F.T.C.*, 291 F. 2d 838 (7th Cir. 1961); *Raladam Co.*, 24 F.T.C. 475 (1937), order aff'd, 316 U.S. 149 (1942).

[75] See, e.g., *Segal* v. *F.T.C.*, 142 F. 2d 255 (2d Cir. 1944); *L. Heller & Son, Inc.* v. *F.T.C.*, 191 F. 2d 954 (7th Cir. 1951); *American Tack Co., Inc.*, v. *F.T.C.*, 211 F. 2d 239 (2d Cir. 1954) (*per curiam*); *Schachnow* v. *F.T.C.*, 1940–43 CCH Trade cases ¶ 56118 (3d Cir. 1941); *Rabhor Co.* v. *F.T.C.*, 1940–43 CCH Trade cases ¶ 56220 (2d Cir. 1942) (*per curiam*); *Mary Muffet, Inc.* v. *F.T.C.*, 194 F. 2d 504 (2d Cir. 1952) (*per curiam*); *Mohawk Refining Corp* v. *F.T.C.*, 263 F. 2d 818 (3d Cir. 1959); *Kerran* v. *F.T.C.*, 265 F. 2d 246 (10th Cir. 1959); *Royal Oil Corp.* v. *F.T.C.*, 262 F. 2d 741 (4th Cir. 1959); *Theodore Kagen Corp.* v. *F.T.C.*, 283 F. 2d 371 (D.C. Cir. 1960) (*per curiam*); *Bantam Books, Inc.* v. *F.T.C.*, 275 F. 2d 680 (2d Cir. 1960); *New Am. Library of World Literature* v. *F.T.C.*, 227 F. 2d 384 (2d Cir. 1955).

[76] In addition to the foreign-origin cases, sellers have been required to disclose, for example, that their oil is not new (e.g., *Mohawk Refining Corp., supra*), that their books are abridged (e.g., *Bantam Books, Inc., supra*), that their watch bezels are not gold (e.g., *Theodore Kagen Corp, supra*), that their fabrics are rayon (e.g., *Mary Muffet, Inc.*), or that their goods are used (e.g., *Schachnow, supra*).

[77] *Seymour Dress & Blouse Co.*, 49 F.T.C. 1278 (1953); *Rudolph R. Siebert Co.*, 49 F.T.C. 1418 (1953); *Academy Knitted Fabrics Corp.*, 49 F.T.C. 697 (1952); *Fisher & DeRitis*, 49 F.T.C. 77 (1952); *Harrison Mills, Inc.*, 50 F.T.C. 1044 (1954) (complaint dismissed); *James B. Tompkins*, F.T.C. Docket 8567 (decided Dec. 5, 1963).

[78] The fully litigated cases in which such orders have been entered include: *Royal Oil Corp.* v. *F.T.C.*, 262 F. 2d 741 (4th Cir. 1959); *Mohawk Ref. Co.* v. *F.T.C.*, 263 F. 2d 818 (3d Cir. 1959); *Kerran* v. *F.T.C.*, 265 F. 2d 246 (10th Cir. 1959); *Rabhor Co.* v. *F.T.C.*, 1940–43 CCH Trade Cases ¶ 56220 (2d Cir. 1942) (*per curiam*); *Salyer Refining Co.* 54 F.T.C. 1026 (1958); *Asheville Fabrics, Inc.*, 49 F.T.C. 1190 (1953); *Louis A. Walton Co.*, 35 F.T.C. 335 (1942); *Samuel R. Israel*, 32 F.T.C. 20 (1940); *Ralph Corn Underwear, Inc.*, 31

disclosure applies with substantially equal force to advertising, for it is well settled that dishonest advertsing is not cured or excused by honest labeling.[79] Whether the ill effects of deceptive nondisclosure can be cured by a disclosure requirement limited to labeling, or whether a further requirement of disclosure in advertising should be imposed, is essentially a question of remedy. As such it is a matter within the sound discretion of the Commission.[80] The question of whether in a particular case to require disclosure in advertising cannot be answered by application of any hard-and-fast principle. The test is simple and pragmatic: Is it likely that, unless such disclosure is made, a substantial body of consumers will be misled to their detriment?

The standard of lawfulness (sec. 15(a)(1)) under the food and drug sections of the Trade Commission Act, which were added by the Wheeler-Lea Act in 1938, has a definite bearing on the problem of deceptive nondisclosure under section 5. Section 15(a)(1) provides in pertinent part:

"The term 'false advertisement' means an advertisement, other than labeling, which is misleading in a material respect; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement, or under such conditions as are customary or usual."

This definition appears not to change the test of an actionable deception so far as affirmative representations are concerned. To be sure, Congress, in enacting section 15, was consciously concerned to reach "the most subtle as well as the most vicious types of advertisement" (H. Rept. No. 1613, 75th Cong., 1st sess. 5 (1937).) It was explained that "The provisions of this bill covering false advertising are far reaching" (id., at 4), and that "It (the bill) covers every case of imposition on a purchaser for which there could be a practical remedy" (id., at 5). But we have seen that section 5 is fully as broad as this. Section 15, however, in contrast to section 5, is explicit in making nondisclosure a possible basis of liability. It specifies two circumstances in which nondisclosure may render an advertisement false and hence unlawful.

The first is where the undisclosed facts are material by virtue of representations made in the advertisement. This is simply the principle of the deceptive half-truth which, as has been pointed out, is an established principle of section 5 liability. The Commission's recent "Outgro" decision (*American Home Products Corp.*, FTC Docket 8478 (decided September 27, 1963)) exemplifies the operation of the principle under section 15. Respondent's product, a treatment for ingrown toenail, did in fact, as claimed in respondent's advertising, afford "relief and protection" respecting this condition. But the relief was temporary only, and the protection nonexistent once infection set in. The use of "Outgro" after the onset of infection might actually aggravate the danger from such infection and make it more difficult to cure. Without explicit disclosure of these facts, which qualified and explained the claim of "relief and protection," the danger was acute that purchasers of the product would misunderstand the limits of its effectiveness and thereby forego necessary medical attention.[81]

The second circumstance specified in section 15 under which nondisclosure may render an advertisement false is also one to which we have adverted, in discussing the requirements of section 5 in the field of hazardous commodities. If the actual consequences of normal use of the advertised product are different from the expected consequences, they should be disclosed to avoid creating a false impression.[82] If, for example, a food is advertised without disclosure of dangers in eating it of which the consumer is unaware, there is palpable—and very dangerous—deception.

While section 15 adverts specifically to nondisclosure and section 5 does not, the legal test under section 15 in the nondisclosure area is, if anything, probably narrower than that under section 5. Many of the "pure" nondisclosure cases actionable under section 5, apart from the hazardous-commodities cases, could not be maintained under section 15 because they do not involve the nondisclosure of facts material with respect to the consequences of using the product.

Although the standard of lawfulness in section 15 with respect to failure to disclose material facts seems not to broaden the duties already borne by sellers subject only to the more generally worded prohibitions of section 5, it illumines those requirements as applied in specific situations. For one thing, it is noteworthy that the specific references in section 15 to nondisclosure as a basis for finding a violation of the Federal Trade Commission Act occur in the context of advertising, not labeling, regulation; the food and drug sections of the Trade Commission Act are expressly limited to advertising and exclude labeling (sec. 15(a)(1)). Congress has determined, then, that there are circumstances in which the nondisclosure of material facts in advertising should be prevented on its own account, wholly irrespective of what disclosure is made or required in labeling.

For another thing, section 15, in its explicit concern with nondisclosure of the consequences of using products which, like food, drugs, devices, and cosmetics, are intended to be used in intimate contact with the human body, enunciates a principle of false and deceptive advertising that is of general applicability where any such products are concerned. The principle is that sellers of a product the use of which may involve danger to human health or safety are under a duty to disclose to the consumer the consequences of use, where those consequences are not known to the consumer. It is true that the disclosure-of-consequences provision of section 15 is not limited to situations of danger; a seller may be required to disclose the consequences of using his food, drug, device or cosmetic even though no danger to health or safety is posed by nondisclosure. (See, e.g., *Keele Hair & Scalp Specialists, Inc.* v. *F.T.C.*, 275 F. 2d 18 (5th Cir. 1960).) Still, it seems clear that in adding section 15 to the Trade Commission Act Congress was particularly concerned with the situation in which consumers are misled as to the consequences of using a product to the detriment of their health or safety. (Cf. Handler, "The Control of False Advertising Under the Wheeler-Lea Act," 6 Law & Contemp. Prob. 91, 102 (1939).)

Other products besides foods, drugs, devices, and cosmetics, as those terms are defined for purposes of the food and drug sections of the Trade Commission Act (see secs. 15(b)-(e)), are used in intimate contact with the human body, or otherwise involve serious possibilities of danger to human life, health or safety. The special jurisdictional and remedial provisions of the food and drug sections (see secs. 12–14) do not of course apply to the advertising of such products, but the standard of lawfulness embodied in section 15(a)(1), insofar as it expresses a general principle of false and deceptive advertising, is fully applicable in a section 5 proceeding. In the only case in which the question of whether cigarettes are subject to the food and drug sections has arisen (*F.T.C.* v. *Liggett & Myers Tobacco Co.*, 108 F. Supp. 573 (S.D.N.Y. 1952), aff'd mem., 203 F. 2d 956 (2d Cir. 1953)), the court, while holding that they are not, in no way suggested that a seller of cigarettes (or of any other product which, though technically not a food, drug, device, or cosmetic, is intended to be used in intimate contact with the human body) is not subject to the duty to disclose the consequences of using his product in circumstances where failure to disclose such consequences would be deceptive.[83] It is at all events clear that,

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F.T.C. 1076 (1940); *Adolph Friedman*, 28 F.T.C. 1660 (1939); *Storyk Bros. Inc.*, 28 F.T.C. 608 (1939). Cf. *Mary Muffet, Inc.* v. *F.T.C.*, 194 F. 2d 504 (2d Cir. 1952) (*per curiam*), aff'g 47 F.T.C. 724 (1950).

[79] *Carter Products, Inc.* v. *F.T.C.*, 186 F. 2d 821, 822–24 (7th Cir. 1951). See *F.T.C.* v. *Standard Educ. Soc.*, 302 U.S. 112 (1937); *Book-of-the-Month Club* v. *F.T.C.*, 202 F. 2d 486 (2d Cir. 1953); *Progress Tailoring Co.* v. *F.T.C.*, 153 F. 2d 103 (7th Cir. 1946); *Exposition Press, Inc.* v. *F.T.C.*, 295 F. 2d 869 (2d Cir. 1961). "The law is violated if the first contact or interview is secured by deception, * * * even though the true facts are made known to the buyer before he enters into the contract of purchase." *Carter Products, Inc., supra*, at 824.

[80] "Congress placed the primary responsibility for fashioning such [cease-and-desist] orders upon the Commission, and Congress expected the Commission to exercise a special competence in formulating remedies to deal with problems in the general sphere of competitive practices." *F.T.C.* v. *Ruberoid Co.*, 343 U.S. 470, 473 (1952). "The Commission is the expert body to determine what remedy is necessary to eliminate the unfair or deceptive trade practices which have been disclosed. It has wide latitude for judgment and the courts will not interfere except where the remedy selected has no reasonable relation to the unlawful practices found to exist." *Jacob Siegel Co.* v. *F.T.C.*, 327 U.S. 608, 612–13 (1946). "[T]he Supreme Court has as much circumscribed our powers to review the decisions of administrative tribunals in point of remedy, as they have always been circumscribed in the review of facts. Such tribunals possess competence in their special fields which forbids us to disturb that measure of relief which they think necessary. In striking that balance between the conflicting interests involved which the remedy measures, they are for all practical purposes supreme." *Herzfeld* v. *F.T.C.*, 140 F. 2d 207, 209 (2d Cir. 1944) (L. Hand, J.). Although the foregoing judicial expressions occur in the context of remedies fashioned under Section 5(b) of the Trade Commission Act or Section 11(b) of the Clayton Act, i.e., cease-and-desist orders, they would appear equally applicable where the remedy takes the form of a trade regulation rule.

[81] See also *Aronberg* v. *F.T.C.*, 132 F. 2d 165 (7th Cir. 1942); *Sebrone* v. *F.T.C.*, 135 F. 2d 676 (7th Cir. 1943); *National Bakers Services, Inc.* v. *F.T.C.*, —— F. 2 —— (7th Cir. 1964).

[82] For decisions applying this aspect of Section 15, see, e.g., *Ultra-Violet Products Co.* v. *F.T.C.*, 143 F. 2d 814 (9th Cir. 1944); *American Medicinal Products, Inc.* v. *F.T.C.*, 136 F. 2d 426 (9th Cir. 1943); *Lanolin Plus, Inc.*, F.T.C. Docket 8150 (decided September 12, 1962).

[83] The ground of the *Liggett & Myers* decision was that on the basis of the language of Section 15 (which defines the products subject to the food and drug sections very narrowly) and what skimpy legislative history there was on the question, as well as the Commission's failure for many years after

in enacting the Wheeler-Lea provisions to deal specifically with certain products, Congress did not intend thereby to limit the full development of the law of deceptive acts and practices under section 5. Thus, while labeling is expressly excluded from the food and drug sections, the Commission is free to proceed under section 5 against false labeling of foods, drugs, devices, or cosmetics.[84]

4. The general principle of seller's duties with respect to the marketing of dangerous products: As has been stated, whether an act or practice is an unlawful deception within the meaning of section 5 may depend upon whether normal use of the product involves dangers to human life, health or safety. The principle is not limited to the nondisclosure area. It also has relevance to determining whether affirmative claims or representations in advertising rise to the level of unlawful deception. The seller of a product whose use may cause personal injury is held to a more stringent standard of truthfulness in advertising than other sellers. As to him, the Commission not only may, but must, "insist upon the most literal truthfulness" (*Moretrench Corp.* v. *F.T.C.*, 127 F. 2d 792, 795 (2d Cir. 1942)), and resolve all ambiguities and interpretive uncertainties against the seller.[85]

There are two reasons for such special treatment. First, the stakes are so much greater. It is one thing to permit an occasional borderline misrepresentation where it appears that only a few consumers are likely to be misled and suffer economic loss thereby. It is altogether more serious to permit the misleading of even the few, where those who are misled may, in consequence, be injured in their persons as well as their pocketbooks. Second, while consumers may perhaps discount a certain amount of exaggerated and distorted advertising in the case of ordinary products, they are not likely to expect and be prepared to cope with loose advertising practices in the area of health and safety. People have a right to, and by and large do, expect that advertising will be completely truthful in circumstances where the consequences of an untruth, half-truth, or ambiguity may be personal injury. Because they expect fair dealing in the advertising of such products, their guard is down.

An example of the higher standards of candor and honesty in advertising which section 5 requires in the area of what may broadly be termed "dangerous products" is furnished by the problem of unsubstantiated, but not necessarily false, claims. Not only is it a deceptive act or practice to make a false claim, but, in a situation where the consumer's reliance on the advertiser's claim might result in personal injury if the claim were false, it is also, and independently, deceptive and unlawful to fail to substantiate the truth of the claim in advance. As the Commission stated recently:

"An advertiser is under a duty, before he makes any representation which, if false, could cause injury to the health or personal safety of the user of the advertised product, to make reasonable inquiry into the truth or falsity of the representation. He should have in his possession such information as would satisfy a reasonable and prudent businessman, acting in good faith, that such representation was true. To make a representation of this sort, without such minimum substantiation, is to demonstrate a reckless disregard for human health and safety, and is clearly an unfair and deceptive practice.

"That this is so is evident from basic principles governing the law of false and misleading representations. One who affirmatively advertises a product to be safe, in a context in which the prospective user's health or safety may be adversely affected if the claim is false, implicitly represents that he has a reasonable and substantial foundation in fact for making the claim. Consider the case of an advertisement for a sunburn oil which states that the product will absolutely prevent painful sunburn, no matter how prolonged the user's exposure to the sun. The purchaser of this product would certainly be surprised and dismayed to find that the advertiser had made such a claim without having solid reason to believe it to be true. Purchasers believe that where such a claim is made, it has been substantiated in advance; the belief is reasonable and, we think, widespread. It is entitled to the Commission's protection." (Heinz W. Kirchner, F.T.C. Docket 8538 (decided Nov. 7, 1963), pp. 8–9.)

This principle has been applied by the Commission in a case involving cigarette advertising.[86] The Commission held to be false and deceptive a representation by respondent, concerning an alleged improvement in its cigarettes, on the ground that the experimental and other data upon which respondent had relied in making this representation to the public were unreliable and did not justify respondent's making the claim. Respondent's failure to substantiate the claim in advance, not the falsity as such of the claim, was the basis for a finding of deception. The Commission "is not held to higher standards of substantiality or probative value in dealing with respondent than respondent has observed in dealing with the public" (49 F.T.C., at 730). We note that at the public hearings in the present matter the spokesman for the cigarette industry conceded the validity of the principle under discussion here (R. 83–Z–1).

Two final points should be made on the subject of dangerous products. First, in stating that the Trade Commission Act imposes special requirements with respect to the advertising of such products, we do not, of course, imply that the Commission has been given by Congress a general jurisdiction to protect the health and safety of consumers. The Commission's responsibility is not to control or prevent the sale or use of dangerous products, but to insure that the advertising of such products is not unfair and does not deceive.

Second, if the scope of the concept of unlawful deception and the requirements of appropriate remedial action may be affected by the hazardous nature of the product involved,[87] clearly they may also be affected by the particular degree of danger involved in using the product. If use of the product involves a risk not only to health or safety, but to life itself, the standard of truthfulness to which the seller must conform is of the highest. Deception with respect to such a product obviously cannot be excused on the ground that only a relatively few consumers would be misled; and consumers are most unlikely to expect any but the very highest standards of honest, truthful, and informative marketing of such a product.

5. Unfair acts or practices: The Keppel decision (*F.T.C.* v. *R. F. Keppel & Bro., Inc.*, 291 U.S. 304 (1934)) makes clear that the prohibitions of Section 5 of the Trade Commission Act embrace acts, practices, or methods of competition that are neither deceptive or misleading, on the one hand, nor monopolistic or anticompetitive, on the other. The Supreme Court in Keppel held that the merchandising practice challenged by the Commission—the sale of penny candy to children by lottery methods—unfairly exploited consumers to the prejudice of respondent's competitors, who were under strong moral compulsion not to engage in the practice, and was therefore proscribed by section 5. The Wheeler-Lea amendments to the Trade Commission Act, passed subsequently to the Keppel decision, eliminated prejudice to competitors as a prerequisite to Commission action under section 5. The amendments did not of course reject, but, rather, approved and codified, the principle of Keppel—that certain merchandising practices are forbidden by section 5 even though they are neither deceptive nor anticompetitive. That principle is embodied in the provision of section 5, added by the Wheeler-Lea Act, that forbids "unfair * * * acts or practices in commerce."[88]

It is not possible to give an exact and comprehensive definition of the unfair acts or practices proscribed by section 5 as amended. The Court in Keppel assumed that the practice challenged in that case did not involve fraud or criminality. It further emphasized that the practice was not beyond the reach of the Commission merely because it did not fall within established categories of immoral or unlawful marketing methods. The Court did, however, state that the practice was one which competitors of the respondent were

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passage of the Act to suggest that cigarettes were subject to the food and drug sections, it was the likelier inference that the Congress that enacted the Wheeler-Lea Act did not intend that cigarettes be subject to those sections. The basis for Congress' position on this point is not entirely clear; probably in 1938 the need for regulation of cigarette advertising was considered slight. It should be borne in mind that the food and drug sections of the Wheeler-Lea Act do much more than merely set out a test of unlawfulness; they also empower the Commission to seek a preliminary injunction, impose criminal penalties, and broaden the Commission's jurisdiction over sellers of the subject products. Congress may have felt, for one reason or another, that cigarette advertising should not be subject to these special provisions. And, assuming it is correct, the *Liggett & Myers* decision—rendered, significantly, in a suit by the Commission for a preliminary injunction—does no more than confirm that the Commission cannot invoke these special provisions against cigarette advertisers. (It should be noted, however, that cigarettes have been held to be "drugs" if they are represented as having therapeutic powers. *United States* v. *46 Cartons of Fairfax Cigarettes*, 113 F. Supp. 336 (D.N.J. 1953).)

[84] See *Houbigant, Inc.* v. *F.T.C.*, 139 F. 2d 1019 (2d Cir. 1944); *Fresh Grown Preserve Corp.* v. *F.T.C.*, 125 F. 2d 917, 919 (2d Cir. 1942); *Mary Muffet, Inc.* v. *F.T.C.*, 194 F. 2d 504 (2d Cir. 1952) (*per curiam*).

[85] See *Murray Space Shoe Corp.* v. *F.T.C.*, 304 F. 2d 270 (2d Cir. 1962); *Country Tweeds, Inc.* v. *F.T.C.*, 326 F. 2d 144, 148 (2d Cir. 1964). Cf. *United States* v. *95 Barrels of Vinegar*, 265 U.S. 438, 443 (1924). "Advertisements which are capable of two meanings, one of which is false, are misleading." *Rhodes Pharmacal Co.* v. *F.T.C.*, 208 F. 2d 382, 387 (7th Cir. 1935), rev'd on other grounds, 348 U.S. 940 (1955) (*per curiam*).

[86] *Philip Morris & Co., Ltd.*, 49 F.T.C. 703, 730 (1952), vacated on appeal on motion of Commission, 5 F.T.C. Statutes and Court Decisions 790 (D.C. Cir. 1953), complaint dismissed on affidavit of abandonment, 51 F.T.C. 857 (1955). Cf. *R. J. Reynolds Tobacco Co.*, 46 F.T.C. 706, 727 (1950), modified on other grounds, 192 F. 2d 535 (7th Cir. 1951); Handler, "The Control of False Advertising Under the Wheeler-Lea Act," supra, at 110.

[87] Compare the Federal Hazardous Substances Labeling Act, enacted in 1960, 15 U.S.C. §§ 1261–73, in which Congress has given explicit recognition to the special need for stringent labeling requirements in the area of dangerous products. The Act does not regulate the advertising of such products, however.

[88] If a practice both exploits consumers unfairly *and* injures competitors, it will be—as in *Keppel*—an unfair method of competition, as well as an unfair act or practice.

"under a powerful moral compulsion not to adopt" (291 U.S., at 313), and that it was "unscrupulous" (ibid.).

An idea of the broad scope of the concept of unfair acts or practices may be gathered from a consideration of the marketing methods which the Commission has in the past forbidden as unfair but which involve neither false-advertising nor restraint-of-trade principles. These methods include: Bribery of a customer's employees ("commercial bribery[89] and payola");[90] inducing purchases by coercion, intimidation, and false disparagement of competitors' goods—e.g., by "scare tactics";[91] harassment of competitors and appropriation of the results of their efforts;[92] inducing breach of competitors' contracts;[93] enticing or inciting competitors' employees;[94] physical interference with competitors' goods or properties ("lifting" competitors' goods from dealers or consumers, destroying competitors' catalogs, removal of manufacturers' names from products, etc.);[95] unfair acquisition of competitors' trade secrets, e.g., by espionage;[96] push money;[97] failure to fill orders promptly and shipment of unordered goods ("padding");[98] wrongful forcing of deals or payments, e.g., by false threats to sue;[99] substitution of inferior goods;[1] and, of course, distribution of merchandise through lottery devices.[2]

Focusing on acts or practices which have been forbidden primarily because of their unfairness to consumers, rather than to competitors, we should mention, as further examples: Refusals to deliver (*E. T. Moye*, 50 F.T.C. 926 (1954)) or to return goods kept for repair (*Interstate Home Equipment Co.*, 40 F.T.C. 260 (1945)); wrongfully delayed delivery of purchased goods (*Associated Trade Press, Inc.*, 46 F.T.C. 58 (1949)); extorting releases from liability (*Holland Furnace Co.*, 55 F.T.C. 55 (1958), aff'd, 295 F. 2d 302 (7th Cir. 1961)); shipping unordered goods in order to induce purchase by mistake (*Norman Co.*, 40 F.T.C. 296 (1945)); concealing seller's identity to obtain repeat orders (*Folding Furniture Works, Inc.*, 34 F.T.C. 921 (1942)); wrongful refusals to return deposits (*Interstate Home Equipment Co.*, supra) or make refunds (*Zlotnick the Furrier, Inc.*, 48 F.T.C. 1068 (1952)); and threatening suit where no money is actually due (*Dorfman* v. *F.T.C.*, 144 F. 2d 737 (8th Cir. 1944)).

No enumeration of examples can define the outer limits of the Commission's authority to proscribe unfair acts or practices, but the examples should help to indicate the breadth and flexibility of the concept of unfair acts or practices and to suggest the factors that determine whether a particular act or practice should be forbidden on this ground. These factors are as follows: (1) whether the practice, without necessarily having been previously considered unlawful, offends public policy as it has been established by statutes, the common law, or otherwise—whether, in other words, it is within at least the penumbra of some common-law, statutory, or other established concept of unfairness; (2) whether it is immoral, unethical, oppressive, or unscrupulous; (3) whether it causes substantial injury to consumers (or competitors or other businessmen). If all three factors are present, the challenged conduct will surely violate section 5 even if there is no specific precedent for proscribing it. The wide variety of decisions interpreting the elusive concept of unfairness at least makes clear that a method of selling violates section 5 if it is exploitive or inequitable and if, in addition to being morally objectionable, it is seriously detrimental to consumers or others. Beyond this, it is difficult to generalize.

In the last analysis, the Commission's responsibility in this area is to enforce a sense of basic fairness in business conduct. For while section 5 "does not authorize regulation which has no purpose other than * * * censoring the morals of businessmen" (*F.T.C.* v. *R. F. Keppel & Bro., Inc.*, 291 U.S. 304, 313 (1934)), the Commission cannot shirk the difficult task of defining and preventing those breaches of the principles of fair dealing that cause substantial and unjustifiable public injury.

V. THE REQUIREMENTS OF THE FEDERAL TRADE COMMISSION ACT WITH RESPECT TO THE MARKETING OF CIGARETTES, IN LIGHT OF THE HEALTH HAZARDS OF SMOKING

Section 5 of the Federal Trade Commission Act requires scrupulous adherence to the standards of fairness, accuracy, and full disclosure in the marketing of cigarettes (see pts. II and IV, supra). It is all the more imperative to hold cigarette manufacturers to the duty of fair and nondeceptive marketing in view of the evident attractiveness of cigarette smoking to children and teenagers, and the fact that it is habit forming.

In this part of the report our concern is to define and particularize, in light of the health hazards of smoking, the requirements of Section 5 with respect to the marketing of cigarettes. In attempting to delineate the lawful bounds of cigarette merchandising, however, we do not mean to suggest or imply that past or current practices of the cigarette industry have violated or are violating any statute administered by the Commission, except insofar as such practices may have been determined to be unlawful in adjudicative proceedings under section 5(b). (See note 3, supra.) The present trade regulation rule proceeding is not a proper vehicle for determining whether violations of law have occurred (see pt. VI, infra). The concern of the present proceeding is with the future, not the past—with how, in light of the Report of the Surgeon General's Advisory Committee, and other pertinent data and materials, the cigarette industry may now avoid violation of the Trade Commission Act. There is no purpose here to impute guilt or innocence in respect of past practices.

A. Affirmatively deceptive advertising

Outright false statements in advertising or labeling respecting the healthfulness or safety of smoking cigarettes or smoking the advertised brand are, of course, unlawful; they require no discussion. But quite apart from explicit misstatements, section 5, as has been demonstrated in the preceding part of this report, forbids a seller to create a false impression in the mind of the consumer through suggestions, insinuations, misleading statements of opinion or exaggerations, deceptive half-truths, innuendo, and other indirect techniques.

Two problems of indirect deception require particular attention in considering the lawful bounds of cigarette advertising. The first is the problem of the unsubstantiated, but not necessarily false, claim. Suppose that a cigarette manufacturer were to claim in his advertising, without having in his possession evidence sufficient to establish the truth of the claim, that a new kind of filter eliminated certain harmful ingredients from the cigarette smoke. There would clearly be deception. Most purchasers assume that an advertiser would not make an unsupported claim of product safety. What quantum of evidence must a cigarette advertiser have in his possession before making such claims? Given the complexity of the technical issues involved in the problem of cigarette smoking and public health, it is doubtful that many such claims would be susceptible of complete proof. To set the standard of advance substantiation at too high a level might, in consequence, preclude the advertising of genuine advances in the safety of cigarette smoking and thereby discourage the development of such products.

The other problem is that of a literally true claim respecting the health consequences of smoking the advertised brand which, nevertheless, is deceptive because of failure to disclose material facts that qualify and explain the claim. Suppose that an advertiser truthfully states that his cigarettes contain no argon. Without further elaboration, many consumers would assume that the elimination of such an ingredient lessened the hazards of smoking the brand—else why would the advertiser make such a claim? The impression created by such an advertisement will be false if, for example, there is a lack of substantial evidence that the elimination of argon lessens the hazards of smoking. That material qualifying fact must be disclosed in order to dispel the false impression created by the claim standing alone.

Consumers would also be deceived, we believe, by claims relating to the amount of the ingredients (e.g., tar and nicotine) present in the cigarette smoke, unless such claims have been verified in accordance with a fully uniform testing procedure. An advertiser who stated that his cagarettes contained only 5 milligrams of tar might be describing accurately the test results he had obtained. Yet advertising these results could create a false impression of the relative hazards of smoking the brand, and be unfair to competitors, if the advertiser were using a testing procedure that yielded, on the same cigarette, a lower tar count than the testing

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[89] See, e.g., *F.T.C.* v. *Grand Rapids Varnish Co.*, 41 F. 2d 996 (6th Cir. 1929); Handler, "Unfair Competition and the Federal Trade Commission," 8 Geo. Wash. L. Rev. 399, 408–09 (1940).

[90] See, e.g., *Bernard Lowe Enterprises, Inc.*, 59 F.T.C. 1485 (1961).

[91] See, e.g., *Holland Furnace Co.* v. *F.T.C.*, 295 F. 2d 302 (7th Cir. 1961); *Dorfman* v. *F.T.C.*, 144 F. 2d 737 (8th Cir. 1944); *Lane* v. *F.T.C.*, 130 F. 2d 48 (9th Cir. 1942); *Zlotnick the Furrier, Inc.*, 48 F.T.C. 1068 (1952).

[92] See, e.g., *Independent Directory Corp.* v. *F.T.C.*, 188 F. 2d 468 (2d Cir. 1951); *Directory Publishing Corp.* v. *F.T.C.*, 208 F. 2d 632 (2d Cir. 1953); *Chamber of Commerce of Minneapolis* v. *F.T.C.*, 13 F. 2d 673 (8th Cir. 1926).

[93] See, e.g., *Carter Carburetor Corp.* v. *F.T.C.*, 112 F. 2d 722 (8th Cir. 1940); *Kalwajtys* v. *F.T.C.*, 237 F. 2d 654 (7th Cir. 1956).

[94] See, e.g., *Cook-Master, Inc.*, 46 F.T.C. 532 (1950); *Darling & Co.*, 30 F.T.C. 739 (1940).

[95] See, e.g., *Hastings Mfg. Co.* v. *F.T.C.*, 153 F. 2d 253 (6th Cir. 1946); *American Greetings Corp.* v. *United States*, 49 F.T.C. 440 (1952); *Waldes & Co.*, 8 F.T.C. 305 (1925).

[96] See, e.g., *Philip Carey Mfg. Co.* v. *F.T.C.*, 29 F 2d 49 (6th Cir. 1928); *Oakes Co.*, 3 F.T.C. 36 (1920).

[97] See, e.g., *Kinney-Rowe Co.* v. *F.T.C.*, 275 Fed. 665 (7th Cir. 1921).

[98] See, e.g., *Rushing* v. *F.T.C.*, 320 F. 2d 280 (5th Cir. 1963); *Dorfman* v. *F.T.C.*, 144 F. 2d 737 (8th Cir. 1944); *Consumers Home Equipment Co.* v. *F.T.C.*, 164 F. 2d 972 (6th Cir. 1947) (*per curiam*); *Norman Co.*, 40 F.T.C. 296 (1945); *Folding Furniture Works, Inc.*, 34 F.T.C. 921 (1942); *Associated Trade Press, Inc.*, 46 F.T.C. 58 (1949).

[99] See, e.g., *Holland Furnace Co.* v. *F.T.C.*, 295 F. 2d 302 (7th Cir. 1961); *Trade Union Courier Publishing Co.* v. *F.T.C.*, 232 F. 2d 636 (3d Cir. 1956); *United States Stationery Co.*, 49 F.T.C. 745 (1953).

[1] See, e.g., *National Trade Publications, Inc.* v. *F.T.C.*, 300 F. 2d 790 (8th Cir. 1962); *Interstate Home Equipment Co.*, 40 F.T.C. 260 (1945).

[2] See, e.g., *F.T.C.* v. *George Ziegler Co.*, 90 F. 2d 1007 (7th Cir. 1937); *National Candy Co.* v. *F.T.C.*, 104 F. 2d 999 (7th Cir. 1939); *Douglas Candy Co.* v. *F.T.C.*, 125 F. 2d 665 (8th Cir. 1942); *Surf Sales Co.* v. *F.T.C.*, 259 F. 2d 744 (7th Cir. 1958); *Rosten* v. *F.T.C.*, 263 F. 2d 620 (2d Cir. 1959); *Lichtenstein* v. *F.T.C.*, 194 F. 2d 607 (9th Cir. 1952).

procedure used by other manufacturers as the basis of their advertising of tar content.

In order to prevent deception in an area of substantial health hazards where highly technical medical and scientific considerations may make literally true claims nevertheless misleading, uniform testing methods should be used as the basis of, and all material qualifying facts should be disclosed in, advertising of claimed improvements in the safety of cigarette smoking.

B. The seller's duty to disclose the health hazards of cigarette smoking

1. General principles: Part IV of this report reviewed the various circumstances in which Section 5 of the Federal Trade Commission Act may require an advertiser to disclose material facts in marketing his product. It was pointed out that under well-established principles this duty might arise either because of past or present affirmative representations by the seller, requiring affirmative disclosure of additional facts in order to dispel a false impression created in the mind of the consumer, or, even in the absence of any affirmative representations, because nondisclosure was deceptive in light of the appearance, nature, or intended use of the product. Specifically, it was noted that the seller of a product involving dangers in its use might be required to disclose the existence of such dangers to the consumers.[3]

(a) The dangerous-products principle: Cigarettes are a product designed for use, and are used, in intimate contact with the human body—as intimate, certainly, as any food or drug—and it is well established, in a long line of Commission decisions, that the normal expectations of consumers of such products (whether a food, a drug, or other) is that they are safe under normal conditions of use. If they are not safe under such conditions but this fact is not disclosed, the consumer is deceived and the seller is guilty of unlawful deception. Cigarettes are not safe under normal conditions of use. Although the degree of risk may vary, a hazard to health exists for every smoker, whether he be a "moderate" smoker of a pack a day, a "light" smoker of less than a pack a day, or a "heavy" smoker. A sellers failure to disclose the health hazards of smoking is, therefore, a deceptive act or practice proscribed by section 5.

(b) The "deceptive half-truth" principle: Most cigarette advertising—and certainly the vast bulk of all such advertising in the mass media—does not merely direct attention to the name of the brand (in contrast to cigarette labeling, which ordinarily contains little but the brand name), or limit itself to representations unrelated to the experience of cigarette smoking (e.g., premium or price offers). In the cigarette industry, advertising has actively stimulated demand for the advertised brand by portraying cigarette smoking in general and the smoking of the advertised brand in particular as a satisfying, desirable, and attractive activity.

Such advertising has associated cigarette smoking with such positive attributes as contentment, glamour, romance, youth, happiness, recreation, relaxation, comfort, and sophistication, at the same time suggesting that smoking is an activity at least consistent with physical health and well-being. Furthermore, cigarette advertising has frequently intimated, without claiming outright, that smoking or smoking the advertised brand is innocuous or at least less hazardous than smoking other brands. Cigarette advertising has thus stressed the claimed satisfactions of smoking while ignoring completely—or even attempting to negate—the dangers of the habit.

It is a deceptive act or practice for an advertiser to make representations concerning the satisfactions to be derived from using so hazardous a product as cigarettes without, at the same time, disclosing the dangers to health involved in its use. Even if the cigarette manufacturer does not claim or suggest that smoking cigarettes or smoking the advertised brand is harmless or healthful, or less hazardous than smoking other brands, in affirmatively representing the smoking habit as attractive and satisfying he is fostering an impression of safety in the minds of many consumers. The image of smoking projected in the typical cigarette advertisement is of a pleasant and happy activity. That image is inconsistent with and misrepresents the complete truth about smoking, which is that while it may afford pleasure, it is a habit difficult to break and extremely dangerous to life and health. To avoid giving a false impression that smoking, because it may be pleasant and satisfying, is therefore innocuous, the cigarette manufacturer who represents the alleged pleasures or satisfactions of cigarette smoking in his advertising must also disclose the serious risks to life that smoking involves.

This principle is applicable a fortiori to cigarette advertising that not only stresses the satisfactions of smoking, but makes a positive attempt to allay the consuming public's fears or anxiety with respect to the dangers of smoking by representing or implying that smoking the advertised brand is or may be harmless or less harmful than smoking other brands. Quite apart from its failure to disclose the hazards of smoking, much advertising of this sort probably is at least on the borderline of deception. But even a completely truthful such claim—referring, let us suppose, by way of a hypothetical example, to a genuine and substantial improvement in the safety of smoking the advertised brand—is likely to deceive many consumers unless there is disclosure of the hazards of smoking. Where such claims are made, disclosure is required to despel any impression that because the advertised brand incorporates certain safety features or improvements, or contains fewer harmful ingredients than other brands, it is therefore safe.[4]

In short, although advertising claims respecting the satisfactions of smoking or respecting health or the safety features of a particular brand are not necessarily untruthful in themselves, standing alone they are at best half-truths. They may be literally true, yet they are still likely to convey the false impression that cigarette smoking is not dangerous to human life and health. The disclosure of the hazards of smoking is necessary to correct a deceptive half-truth.

Cigarette advertising of the kind described above (i.e., advertising that lays heavy stress on the satisfactions of smoking and frequently attempts to negate the dangers of smoking—but never discloses those dangers) has for many years dominated, and continues to dominate, the industry. Its volume has been very great. Advertising so intensive and long continued throughout an entire industry is bound to create and has created a powerful impression—in this case one of smoking as a satisfying, pleasurable, and perhaps even indispensable activity which is consistent, at least, with physical health and well-being. That impression is now firmly lodged in the minds of the consuming public.

The principle thus comes into play that an advertiser may be obliged to disclose a material fact about his product not only in order to correct the false impression engendered by current advertising that omits to disclose the fact, but also to cure the ill effects of former advertising practices. In view of the strong impression built up in the public mind by a decade of especially massive cigarette advertising; it is likely that current or future such advertising, even if it refrains from affirmative claims concerning the experience of smoking, cannot avoid exploiting and reinforcing that impression.

In this industry, clearly, advertising has had the function of persuading the consumer of the pleasure and satisfaction of smoking cigarettes. Advertising has been the principal vehicle of the sales message. In view of the role of advertising in the cigarette industry, it is important that cigarette advertising be free of any false impression of the product's safety arising from what is omitted as well as what is stated or implied.

2. The seller's duty of disclosure arising from the nature of modern mass advertising: This section deals with another basis for promulgation of the trade regulation rule, derived from considerations of both deception and unfairness under section 5, but which perhaps fits neither of these categories, as conventionally interpreted, precisely.

In the area of consumer protection, section 5 confers on the Commission a broad mandate to prescribe acts or practices which exploit the consumer and impair his freedom to choose among available products. The sale of cigarettes without disclosure of the health hazards of smoking has such effects, and is therefore unlawful, not only for the reasons already stated but for additional reasons having to do with the special conditions of modern marketing.

The bedrock common law and section 5 principles of consumer protection reflect, for

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[3] The cigarette manufacturer, as a supplier of goods, is under a common-law duty to exercise reasonable care to assure that goods placed on the market are safe (Prosser, Torts § 83 (2d ed. 1955)); and where goods are inherently dangerous, there is a common-law duty to warn, in advertising and labeling, of known dangers. Ibid.; Dillard & Hart, "Directions for Use and the Duty to Warn," 41 Va. L. Rev. 145 (1955). The "Restatement of Torts," § 388 (1934), also takes this view:

"One who supplies directly or through a third person a chattel for another to use, is subject to liability to those whom the supplier should expect to use the chattel with the consent of the other or to be in the vicinity of its probable use, for bodily harm caused by the use of the chattel in the manner for which and by a person for whose use it is supplied, if the supplier

(a) knows, or from facts known to him should realize that the chattel is or is likely to be dangerous for the use for which it is supplied;

(b) and has no reason to believe that those for whose use the chattel is supplied will realize its dangerous condition; and

(c) fails to exercise reasonable care to inform them of its dangerous condition or of the facts which make it likely to be so."

The law of products liability is in process of development toward the day when the seller of any product who sells it in a condition dangerous for use will be held strictly liable to the ultimate user for injuries resulting from such use, even though the seller has exercised all possible care, and the user has entered into no contractual relation with him. Prosser, "The Assault Upon the Citadel (Strict Liability to the Consumer)," 69 Yale L. J. 1099, 1112 (1960), "Restatement (Second), Torts," § 402A (Tent. Draft No. 7, approved May 1, 1961).

[4] Compare the decisions forbidding unqualified representations that a drug affords "relief" from a condition on the ground that such representations falsely imply curative powers. *F.T.C.* v. *Rhodes Pharmacal Co.*, 348 U.S. 940 (1955) (per curiam), rev'g 208 F. 2d 382 (7th Cir. 1953); *Aronberg* v. *F.T.C.*, 132 F. 2d 165 (7th Cir. 1942); *D.D.D. Corp.* v. *F.T.C.*, 125 F. 2d 679 (7th Cir. 1942); *American Home Products Corp.*, F.T.C. Docket 8478 (decided September 27, 1963).

the most part, marketing practices of an earlier period in the Nation's economic development. There was a time when the sale of consumer products was, far more than it is today, a matter largely of face-to-face persuasion by the seller and in advertising and labeling, of direct, detailed, and explicit claims for the quality or merits of his product. Today, however, most consumer products are mass produced and highly standardized; and the techniques of mass communication by seller to consuming public have been perfected. New sales methods have, accordingly, come to the fore. The phenomenon under scrutiny in this proceeding—the advertising of the cigarette industry, mostly in the mass media, on a scale of expenditure of more than $200 million a year—differentiates the present problem from the traditional problems of false and misleading advertising.

In the conventional false and misleading advertising case, it is not unusual to consider the challenged advertisement apart from the respondent's—and the industry's—total advertising. This is a satisfactory procedure where the source of public injury or consumer exploitation lies essentially within the four corners of the advertisement, in the claims made or facts left undisclosed. It is less satisfactory where the cumulative effect of massive and long-continued advertising throughout an entire industry, in contrast to the effect of a single advertisement or particular advertisements, is itself a source of substantial and unjustifiable injury to the consuming public.

Part III of this report contains an analysis of cigarette advertising in relation to the consumption of cigarettes and the dissemination of evidence of the grave health hazards of cigarette smoking, for the period since concern with those hazards first became acute. Certain facts emerge from this analysis. Cigarette advertising, concentrated in the media having the widest consumer exposure, has increased rapidly and continuously in the decade since concern with the hazards of smoking first reached significant proportions. Considered as a whole, such advertising has emphatically and persistently driven home, in the minds of its vast audience, the pleasure and desirability of cigarette smoking. Further, it has frequently implied that smoking or smoking the advertised brand is harmless or relatively harmless to the health of the individual. The net effect of this advertising—its magnitude and content—has been to help maintain cigarette consumption at a high and rising level despite the increasingly patent dangers of the habit. While thus spending hundreds of millions of dollars to iterate and reiterate that smoking is attractive and satisfying and to allay anxiety on the score of the hazards of smoking, the cigarette manufacturers have made no effort whatever, and have spent nothing, to inform the consuming public of the mounting and now overwhelming evidence that cigarette smoking is habit-forming, hazardous to health, and once begun, most difficult to stop. On the contrary, the cigarette manufacturers and the Tobacco Institute have never acknowledged, and have repeatedly and forcefully denied, that smoking has been shown to be a substantial health hazard.[5]

The cigarette industry's massive, continuous, mounting, and forceful advertising, coupled with the refusal to acknowledge or take any steps to inform the consuming public of the hazards to health, has blunted public awareness and appreciation of these hazards and has tended to maintain demand for the product in the face of growing public concern. Not only has the industry failed to disclose to the consuming public the dangers of cigarette smoking; its past and present advertising has camouflaged them. The cumulative effect of at least a decade of massive cigarette advertising has been to establish a barrier to adequate public knowledge and appreciation of the health hazards. Modern mass-media advertising on the scale conducted by the cigarette industry is a form of power in the marketplace—power over the buying choice of consumers. It is lawful power. But just as the possession of lawfully acquired market or monopoly power in the antitrust sense may nevertheless place a firm under a special duty of fair dealing toward its competitors,[6] an advertiser's possession of great power vis-a-vis consumers may place him under a special duty of fair dealing toward them, especially where the advertised product is dangerous to life and health. The duty exists even if no individual advertisement, viewed in isolation, is deceptive under conventional principles. The cigarette industry's duty of fair dealing with the public is not avoided by the efforts of groups such as the American Cancer Society to educate the public in the health hazards of cigarette smoking. On the contrary, the duty arises precisely because of the tendency of the industry's advertising to neutralize the impact of such educational efforts.

The findings made in part III of this report justify and indeed compel the inference that, deception to one side, cigarette advertising, by virtue of its magnitude, techniques, content, media, and other factors, and above all by its failure to disclose the dangers of smoking, is unfair to the public and consequently (should it continue in the future in its present form; i.e., without any disclosure of the dangers of smoking) unlawful under section 5.

3. The protection of youth from unfair or deceptive cigarette advertising and labeling: The law has always evinced special regard for protecting the young.[7] "The infant has always been a favorite of the law. From early times the common law has made exceptions to the ordinary rules of law to compensate for the mental immaturity of persons in the adolescent period of life. The infant has been given certain special rights and privileges, and at the same time has had imposed upon him certain disabilities, all intended to afford him special protection."[8] Of particular applicability here is the established principle that:

"One who supplies * * * a chattel for the use of another whom the supplier knows or from facts known to him should know to be likely because of his youth, inexperience, or otherwise, to use it in a manner involving unreasonable risk of bodily harm to himself * * * is subject to liability for bodily harm caused thereby to them." [Restatement of Torts, sec. 390 (1934).]

In the interpretation of section 5 of the Trade Commission Act, the Federal Trade Commission early recognized the need to afford special protection to children. In *F.T.C.* v. *R. F. Keppel & Bro., Inc.*, 291 U.S. 304 (1934), the Supreme Court emphasized the immature judgment of children in upholding the Commission's prohibition of the sale of penny candies by lot or chance. The Court stated:

"[T]he method of competition adopted by respondent induces children, too young to be capable of exercising an intelligent judgment of the transaction, to purchase an article less desirable in point of quality or quantity than that offered at a comparable price in the straight goods package." [Id., at 309.]

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"It is true that the statute [sec. 5] does not authorize regulation which has no purpose other than that of relieving merchants from troublesome competition or censoring the morals of businessmen. But here the competitive method is shown to exploit consumers, children, who are unable to protect themselves. * * * It would seem a gross perversion of the normal meaning of the word, which is the first criterion of statutory construction, to hold that the method is not 'unfair.'" [Id., at 313.]

The credulity and immaturity of children, and the consequent need to give them special protection from exploitive marketing practices, were recognized by the Commission in its recent decision in *Wilson Chemical Co., Inc.*, F.T.C. Docket 8474 (decided January 14, 1964), where the respondent salve manufacturer, by the use of misleading and deceptive advertisements, recruited children and adults to sell its salve, and thereafter, by the employment of a system of threatening and deceptive collection letters, coerced payment for the salve from the children and adults to whom the salve had been sent as the result of the deceptive advertising. In discussing the coercive nature of respondents' dunning letters, the Commission stated (p. 5): "They are strong letters to send to adults. Their coercive nature is increased when it is considered that in the majority of cases the recipients of these letters are probably children." So also, in dealing with the marketing of toys the Commission has recognized that special standards of truthful and non-deceptive advertising must be observed. See, e.g., *Ideal Toy Corp*, F.T.C. Docket 8530 (decided January 20, 1964), p. 2.

Thus, throughout the law in general and under section 5 of the Trade Commission Act in particular, it has been recognized that minors constitute an especially vulnerable and susceptible class requiring special protection from business practices that would not be unlawful if they only involved adults. Accordingly, a marketing practice, directed in a substantial part toward minors, that interferes substantially and unjustifiably with their freedom of buying choice is an unfair or deceptive act or practice even if it is not especially pernicious as to adults. Thus, cigarette advertising or labeling that does not disclose the health hazards of cigarette smoking may be independently unlawful under section 5—quite apart from the grounds previously advanced—because it "exploit[s] consumers, children, who are unable to protect themselves." *F.T.C.* v. *R. F. Keppel & Bro., Inc.*,

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[5] See, e.g., H.R. Rep. No. 1372, False and Misleading Advertising (Filter-Tip Cigarettes), 85th Cong., 2d Sess. 23 (1958); Neuberger, Smoke Screen: Tobacco and the Public Welfare, ch. 2 (1963).

[6] See, e.g., *Associated Press* v. *United States*, 326 U.S. 1 (1945); *United States* v. *Terminal R.R. Assn.*, 224 U.S. 383 (1912); *United States* v. *Aluminum Co. of America*, 148 F. 2d 416 (2d Cir. 1945); *United States* v. *United Shoe Machinery Corp.*, 110 F. Supp. 295 (D. Mass. 1953), affd. per curiam, 347 U.S. 521 (1954).

[7] A famous example is the "attractive nuisance" doctrine of tort law. See, e.g., *Sioux City & Pac. R. Co.* v. *Stout*, 17 Wall. 657 (U.S. 1873); *Keffe* v. *Milwaukee & St. Paul R. Co.*, 21 Minn. 207 (1875); *United Zinc & Chem. Co.* v. *Britt*, 258 U.S. 268 (1921); *Ekdahl* v. *Minnesota Utilities Co.*, 203 Minn. 374, 281 N.W. 517 (1938); *McKiddy* v. *Des Moines Elec. Co.*, 202 Iowa 225, 206 N.W. 815 (1926); *Bartleson* v. *Glen Alden Coal Co.*, 361 Pa. 519, 64 A. 2d 846 (1949); *Restatement of Torts* § 339 (1934); Prosser, Torts 438–45 (2d ed. 1955). Mr. Justice Holmes described the doctrine in the following terms: "knowingly to establish and expose, unfenced, to children of an age when they follow a bait as mechanically as a fish, something that is certain to attract them, has the legal effect of an invitation to them although not to an adult." *United Zinc & Chem. Co., supra*, at 275. However, this is probably too restrictive a statement of the doctrine in its present form. See Prosser, *op. cit. supra*, at 440.

[8] 5 Vernier, American Family Laws 3 (1938). See Ellis, "Basic Aspects of Legal Incapacity," 1951 U. Ill. L. F. 189 (1951).

supra, at 313. This conclusion rests on the concurrence of a number of factors.

The first is the attractiveness of the product to children and teenagers. While the causes of cigarette smoking are not as yet perfectly understood, it seems clear that smoking has some relation to the stresses and strains of adolescence, and is attractive and desirable to many adolescents as a way of asserting their independence, conforming to their peers, and emulating adult behavior, and for other social and psychological reasons.[9] These emotional factors make many children and teenagers predisposed to smoke and hence susceptible to the inducements contained in cigarette advertising, and inhibit their ability to appreciate and weigh the objective factors that ought to enter into a decision as to whether to smoke, among them the health hazards of cigarette smoking. Cigarettes may be analogized to the "attractive nuisance" of tort law (see note, supra). Children and teenagers are drawn to them for powerful, but emotional rather than rational, reasons, which interfere with the exercise of judgment and reason.

A second critical factor is the availability of cigarettes to children and teenagers. Although there are laws regulating the sale of cigarettes to minors, it is apparent that even where such laws constitute a theoretically effective prohibition of sales to minors (and it should be noted that in many parts of the Nation cigarettes may lawfully be sold to teenagers and even children[10]) they are not effectively enforced.[11] In fact, as we have seen, a very large number not only of teenagers but of children as well smoke, often heavily.[12] Because cigarettes are readily obtainable, and indeed widely consumed, by youngsters, the effect of advertising inducements on them cannot be dismissed or ignored. As the report of the Surgeon General's Advisory Committee states, "the years from the early teens to the ages of 18–20 are significant years in exposing people to their first smoking experiences. * * * All available knowledge points toward the years from the early teens to the age of 20 as a significant period during which a majority of later smokers began to develop the active habit." (ACR 362, 368.) The importance of insuring that cigarette advertising be completely fair and nondeceptive to people in this age bracket is obvious.

A third factor to be considered is the nature of the danger. Two points should be made in this connection. On the one hand, the risk to health and life is greatest, as the Report of the Surgeon General's Advisory Committee expressly found, for those who begin to smoke before the age of 20.[13] This finding underscores the necessity of protecting children and teenagers from unfair or deceptive cigarette merchandising practices to the limits of the Commission's statutory authority.

On the other hand, there is no directly apparent or immediate danger from cigarette smoking. The effects of the habit ordinarily take a number of years to appear. Everyone knows that very young people have a far less acute appreciation of mortality, and danger generally, than adults. Young people perhaps can comprehend immediate, palpable dangers, but the danger of cigarette smoking is to their long-term health, threatening them only with what to them is the remote prospect of premature mortality in middle age. They are therefore not likely to be able to appreciate the serious risks they are taking in smoking (see, e.g., R. 361; ex. 26, p. 1). The analogy of the "attractive nuisance" of tort law is again relevant. While the attractions of cigarette smoking are such as to make an immediate and strong appeal on emotional grounds difficult for many young people to resist, the dangers in cigarette smoking are not readily apparent or comprehensible to such persons.

Another critical factor is the habit-forming nature of cigarette smoking. Smoking is a habit difficult to break. The difficulty varies with the particular individual. For many people the choice to smoke, once it has been made, may as a practical matter be irrevocable. A person may begin to smoke—say at the age of 15—on the basis of a completely immature judgment. He may be incapable at that time of appreciating the dangers of smoking. Ten years later he may regret his youthful choice and desire to discontinue the habit, but, depending on his individual makeup, this may be too difficult for him to do.

Finally, the role of cigarette advertising in the youth market must be considered. It has been pointed out that cigarette advertising is strongly concentrated in television, where it reaches a vast audience composed in very substantial part of children and teenagers. Quite apart from the fact that cigarette advertising has on occasion utilized themes which appear to have special appeal for youth, the fact that children and teenagers are exposed to a very substantial amount of cigarette advertising requires that such advertising be fair and nondeceptive as to them. Cigarette advertising does not present a case of the accidental or occasional exposure of an especially susceptible or vulnerable consumer group to advertising mainly directed toward adults. Whether through design or otherwise, cigarette advertising is so placed that its audience is substantially, and not merely incidentally or insignificantly, composed of nonadults. And, as we have seen, such advertising has actively and effectively sought to induce the purchase of cigarettes by heavily stressing the attractions and satisfactions of smoking without disclosing the serious hazards to health.

It is widely believed that advertising is to a significant degree responsible for the prevalence of smoking among the Nation's youth. In the words of two doctors of the U.S. Public Health Service:

"At the present state of knowledge, it is impossible to say exactly what role the mass media of communication play in this context. It is unlikely that many adolescents start smoking merely because of the influence of advertisements and commercials. Many might do so even if they were never exposed to such advertisements. However, there are several reasons why the mass media are, in fact, likely to influence this form of behavior—both with respect to the initiation of the habit and its maintenance. First, we know that in our society a favorable climate of opinion exists which supports smoking behavior. The mass media can be quite effective in reinforcing this general climate, since they conspicuously avoid presenting content which is inconsistent with or in opposition to this general climate. This is primarily true of cigarette advertising, since it does not present a balanced appeal to the individual with respect to both the favorable and the detrimental effects involved in smoking."

In addition, the advertising appeals which seek to promote and reinforce smoking behavior are anchored in an awareness of the fact that individuals tend to see and hear and remember those things which fit in with their basic needs and values and that they are likely to selectively respond or pay attention to material which directly or implicitly relates to these needs. For example,

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[9] See, e.g., R. 153–54; bibliography in Advisory Committee's Report, pp. 377–379. The Advisory Committee concluded:

"There is suggestive evidence that early smoking may be linked with self-esteem and status needs although the nature of this linkage is open to different interpretations." (ACR 376.)

Elsewhere it stated:

"At present, there is persuasive, but not convincing evidence that smoking among adolescents may in many cases be related to needs for status among peers, self-assurance, and striving for adult status." (Id., at 373.)

[10] A survey of state laws regulating the sale of cigarettes to minors discloses that only a few states forbid the sale of cigarettes to minors under 21, while many forbid their sale only to minors under 18 or 16 and some have no prohibition at all against sales of cigarettes to minors.

[11] See report of the Special Committee of the New York State Senate on Smoking and Health 9 (1964) (Ex. 446). See also, e.g., Exs. 434, 435.

[12] The prevalence of smoking among youth of various ages is documented in Part III of this report. The Report of the Advisory Committee, pp. 361–362, states: "At the 12th grade level, between 40 to 55 percent of children have been found to be smokers." It also states, "More recent but limited data suggest that there has been an increment in smoking prevalence at all age levels since the early fifties" (id., at 362); and that it has been estimated "that 10 percent of later smokers 'develop the habit with some degree of regularity' before their teens and 65 percent during their high school years" (ibid., citing Horn, "Behavioral Aspects of Cigarette Smoking," 16 J. of Chronic Dis. 383 (1963)). Dr. Eva Salber found that in Newton, Mass., the average age at which boys smoked their first cigarette was 11.6 (12.7 for girls), and that an average of only 2.1 years elapsed between the first cigarette and the commencement of regular smoking (1.7 for girls). (R. 157.) The Health Commissioner of New York City reported that more than 60 percent of the city's junior and senior high school students (ages 11–18) smoke (R. 262); 12 percent of the boys in junior high school and 5 percent of the girls smoke more than ½ pack a day. In senior high school, the figures are 41 percent and 25 percent. Ibid.

[13] ACR 36. The relationship between the age at which smoking is begun and the danger of smoking is emphasized in a study by Dr. E. Cuyler Hammond and Lawrence Garfinkel. "As described in a previous report, the great majority of men who were current cigarette smokers in 1959–60 began to smoke cigarettes before they reached the age of 25; and two-thirds of them began before the age of 20; and an appreciable proportion began before the age of 15. In this analysis, it has been found that daily amount of cigarette smoking and the degree of inhalation of the smoke are related to age at start of cigarette smoking. Men who started smoking early in life tend to smoke more cigarettes per day and tend to inhale the smoke more deeply than do men who started smoking later in life. The same pattern is found in other age groups; but it is less pronounced in the older age groups.

"Since both current amount of smoking and degree of inhalation are related to age at start of smoking, it is not surprising that they are related to each other. Men who smoke the most cigarettes per day tend to inhale the smoke to the greatest degree. Very few light smokers inhale deeply while a large proportion of heavy smokers do inhale the smoke deeply.

"The total lifetime exposure of an individual to cigarette smoke is dependent upon years of smoking, number of cigarettes smoked per day, and the degree to which the smoke is inhaled. All three of these variables are related to age at start of cigarette smoking. Thus current cigarette smokers who started the habit early in life have generally had a very much greater total lifetime exposure to cigarette smoke than current cigarette smokers who did not start the habit until later in life." (Ex. 383, Ex. C, pp. 13–14.) See also Hammond and Garfinkel, "Smoking Habits of Men and Women," 27 J. Natl. Cancer Inst. 419 (1961).

individuals who are concerned about gaining social status or success in their social contacts are likely to respond to those messages which directly or implicitly indicate that the use of the product will serve to promote such goals. Those individuals who are susceptible to this approach—primarily the teenager, are likely to be influenced by such messages. While this may not be the sole factor which determines whether or not an individual initiates the smoking habit and maintains it, it may be quite effective in conjunction with other forces operating upon him.

In general, therefore, it can be safely assumed that a large number of individuals who experience some desire to start smoking along with ambivalent feelings about the matter, may be sufficiently influenced by the mass media to induce them to decide one way or another. In this situation the impact of advertisements and commercials may well be decisive in a very large number of cases. The reasons for this opinion are:

(1) It is a prevalent view in our society that the Government protects the public against advertisements to promote the sale of dangerous products. The mere fact that advertisement of cigarettes is officially tolerated carries an implication that cigarettes are not considered as serious a health threat as other products not generally tolerated (for example, dope or, for that matter, hard liquor). Such an implication is most likely to be influential in the case of persons already inclined, though perhaps still hesitant, to take up smoking.

(2) While no single kind of commercial, such as one promoting the sale of one brand of cigarette over another, can be expected to have much influence, the cumulative effect of a constant bombardment by many kinds of cigarette commercials and advertisements is a different matter. Together with smoking heroes and heroines in many TV shows and certain other presentations of a similar nature, it would tend to create a general image of smoking as a typical, if not desirable cultural trait in our society. This would reinforce the social influence toward smoking that may exist among adolescent groups as well as weaken any rational counterarguments.

(3) The mere fact that millions of dollars are spent yearly on advertisements for cigarettes reflects a conviction on the part of cigarette manufacturers that such advertisements are effective.[14]

Whether or not the cigarette industry has deliberately attempted to exploit the large and vulnerable youth market, its advertising, in emphatically reiterating the pleasures and attractions of smoking without disclosing the dangers to health, has exercised an undue influence over the large class of youthful, immature consumers or potential consumers of cigarettes.

It is not the Commission's position that all advertising should be judged in terms of a nonadult's standard of comprehension and judgment, but the special factors reviewed above justify special treatment in this regard for cigarette advertising, as for the penny candy merchandising practices condemned in the Keppel case. Indeed, the Nation's advertising media[15] and the cigarette industry are aware that cigarette advertising appealing to youth requires special attention. Of the children and teenagers who, today, have already begun to smoke, many thousands may die prematurely as a result of diseases caused by or associated with cigarette smoking. That may be the result of a choice made at an age when, and with respect to a product as to which, a mature balancing of the benefits and risks of smoking was impossible for them. They will have made this choice after having been exposed to massive advertising constantly reiterating the attractions of smoking without giving any intimation of the hazards involved. The Commission concludes that the standard of conduct defined in the trade regulation rule is required by Section 5 of the Trade Commission Act for the protection of the Nation's youth.

The normal consumer expectation is that in the absence of an affirmative disclaimer a product intended for use in intimate contact with the human body is safe. So far as cigarettes are concerned, this expectation is undoubtedly even more widespread among children and teenagers than among adults. Adults who read newspapers, or who otherwise keep up with events, are likely to have some knowledge of the publicity concerning the hazards of cigarette smoking. Many children and teenagers do not read newspapers or keep up with current events. Many young people are therefore unaware of the publication of the report of the Surgeon General's Advisory Committee and other scientific findings in the area, or, if they have some awareness of these events, do not fully understand their significance. Thus the contention that the manufacturer's duty to disclose the dangers of smoking is canceled out by the publicity that has been accorded the smoking-and-health problems—a contention which in any event fails, for reasons to be discussed—is conspicuously without merit as applied to the millions of youthful consumers and potential consumers of cigarettes.

C. Arguments against the Commission's proposed action

Various arguments were made in the course of this proceeding against the Commission's adopting the proposed trade regulation rules. All of these arguments have been given the most careful consideration by the Commission. We shall attempt in this section of the report to deal with them fully.[16]

1. The publicity that has been accorded the medical findings on the health hazards of smoking: It is argued that wide publicity has been given the Report of the Surgeon General's Advisory Committee and other reports or findings on the health hazards of smoking by the news media or through the educational efforts of public and private groups; that consequently the consuming public is aware of the hazards of smoking; and that therefore the failure to disclose these hazards in cigarette advertising and labeling is not deceptive—no one is fooled because everyone knows that smoking is dangerous.

We know of no way of accurately measuring the intensity and effect of the publicity that has been given reports of the hazards of cigarette smoking; we can only surmise. Among the many millions of Americans who smoke cigarettes, or who are considering whether to begin smoking or resume smoking, there are undoubtedly some (probably a very small proportion) who have read and digested the findings of the Report of the Surgeon General's Advisory Committee and who realize, further, that these findings represent the consensus of medical thinking on the subject. There is probably a much larger proportion consisting of people who have read (or heard) about the report and have a general awareness of its findings. Almost certainly there are many—very possibly millions—more whose only awareness, at best, is that there is a "controversy" over the health consequences of cigarette smoking. But there is a difference between knowledge of the hazards of smoking and mere awareness that such hazards have been alleged or conjectured; and clearly the members of our last consumer group—and perhaps the members of the second group as well—do not know the fact, established by the advisory committee's report and by other authoritative studies, that cigarette smoking is a cause of lung cancer and other serious diseases and contributes substantially to excess mortality. Since a substantial segment of the consuming public is in all probability not aware of this fact—a fact plainly material to their deciding whether or not to consume cigarettes—the seller's failure to disclose it is deceptive, notwithstanding the publicity that has been given the question of smoking and health.

In every false and misleading advertising case, it can be contended that the challenged advertisement is not in fact deceptive because the public has information, obtained from other sources than the advertiser, that cancels out any possibly misleading qualities of the advertisement itself. The contention is a reasonable one, where, for example, the false impression created by the challenged advertisement is preposterous and the Commission can infer that all but an insignificant and unrepresentative segment of the consuming public would, on the basis of common knowledge and experience, give no credit to it. That is not the present situation. There is nothing preposterous in a person's assuming, from the absence of any statement to the contrary in cigarette advertising and labeling, that the dangers of smoking have not been established. It is not unrealistic, on the basis of the Commission's experience with consumer reactions and attitudes, to suppose that this assumption is in fact widespread among consumers and potential consumers of cigarettes. The record of this proceeding supports such a finding (see, e.g., note 119, infra).

Furthermore, the argument that everyone is aware of the health hazards of smoking fails to take adequate account of the existence of different levels of awareness. To be remotely or dimly aware of a subject is not the equivalent of having the kind of knowledge upon which people normally act. Much of the publicity concerning the health implications of cigarette smoking is mere

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[14] Ex. 216, pp. 1–3 (comments of Drs. Fred Heinzelmann and Godfrey M. Hochbaum concerning the proposed trade regulation rules for the advertising and labeling of cigarettes). See also, e.g., Exs. 26 (p. 2), 53, 54, 58, 65, 73, 78, 91, 94, 99, 100, 109, 110(a), 134, 181, 188, 216, 257, 272, 318(h), 335, 356, 359(a), 432, 514. The Commissioner of Health of the City of Minneapolis has stated:

"I am convinced that no serious inroads can be made into the matter of reducing cigarette consumption in this country until the massive, frightening and overwhelming impact of television advertising beamed at immature youngsters can be curtailed. Adults of middle age and above can carry their own responsibility for their bad habits since the publicity to date certainly has been adequate. The 13 year old school child, on the other hand, cannot properly evaluate the scientific evidence, nor is he particularly amenable to advice, caution, and threats on the part of the older people whether they be parents or school authorities. If we could only diminish the incessant bombardment of advertising on such children I think this would be much more effective than all the parental lecturing and school propaganda that the adult world can bring to bear upon them." [Ex. 134.]

[15] The Television Code Review Board of the National Association of Broadcasters recommended the following amendments to the Code: "Care should be exercised so that cigarette smoking will not be depicted in a manner to impress the youth of our country as a desirable habit worthy of imitation"; "The advertising of cigarettes should not be presented in a manner to convey the impression that cigarette smoking promotes health or is important to personal development of the youth of our country." Ex. 283, Ex. A, p. 2.

[16] Those arguments involving the Commission's authority to conduct a trade regulation rule-making proceeding, rather than the merits of the proposed rules, are discussed in Part VI of this report, infra.

hearsay. Many people are aware that it has been said that smoking is harmful; but this is not the same as knowing that smoking is harmful. Relatively few have studied the sources of the publicity themselves—for example, the advisory committee's report. As far as many, and perhaps most, people are concerned, the hazards of smoking are in the class of rumor—albeit disquieting rumor—rather than fact. This is an impression that has probably been reinforced by the cigarette industry's refusal to admit that smoking is in fact dangerous, and by the failure of Government to take, as yet, affirmative steps to protect the public from the hazards of smoking. The Commission cannot rely on the public's vague, unspecific and (as we are about to see) merely transient awareness of advertising falsehoods as an excuse for not proceeding against them.

Such awareness is an especially inadequate substitute for actual knowledge in the case of a product, such as cigarettes, the consumption of which is a habit difficult to break. As the Surgeon General's Advisory Committee observed, "the smoking habit is linked with so many aspects of a person's psychological makeup that mere intellectual awareness of risks involved, even among those with rather intimate and intensive contact with the subject, is insufficient to overcome other dynamic factors involved." (ACR 375.) For a person habituated to smoking, it may provide a convenient means of evading the question of whether to discontinue smoking because of the health hazards involved to view the whole problem as an unsettled "controversy"—a health "scare" the objective significance of which has not been established but only discussed. In other words, the habituating nature of smoking is itself a barrier to full awareness and appreciation of the hazards of smoking, at least by the confirmed smoker. The barrier cannot be surmounted if the cigarette manufacturers, by their failure to disclose the dangers of smoking in their advertising and labeling, permit those dangers to remain in the category of pure rumor or hearsay. The publicity accorded the problem of smoking and health has not gone so far as to implant in the minds of the consuming public actual knowledge that smoking is a substantial health hazard.

There is no inconsistency in holding that such disclosure is necessary because of lack of sufficient public knowledge of the hazards of smoking and in recognizing, as the Commission has implicitly throughout this report, that there is considerable public concern with and anxiety about the hazards of smoking. In the first place, a deception, to be actionable, need not be universal. If many people are cognizant of the hazards of smoking, many others, and probably more, are not. In the second place, while there is little doubt that the publicity accorded the smoking and health problem has engendered widespread anxiety about smoking—anxiety which some cigarette advertising, at least, has attempted to allay [17]—there is an obvious difference between a generalized anxiety, suspicion or fear, on the one hand, and particularized knowledge of a fact, on the other. The existence of the former kind of awareness without the latter is likely to create public confusion, and therefore increases rather than eliminates the need for clear disclosure in cigarette advertising and labeling that smoking is a substantial health hazard.

An argument based on the present level of public awareness of the advisory committee's report or other sources fails, in any event, to reckon with the dynamic factors that are involved here. It is perhaps true that today, but a few months after publication of the advisory committee's report, public awareness of the hazards of smoking is at a higher level than previously. But the release of that report was an extraordinary event. No similar event has occurred since or is likely to occur within the near future. The publicity given the report has already diminished greatly and it may be surmised that the report is rapidly receding in the public consciousness. There is no basis on which to project the amount of publicity that will be given the health hazards of cigarette smoking in the future.

The question of publicity seems, in its very nature, irreducibly fluid and dynamic. Consider, for example, the situation of a child 9 years old at the time of the publication of the advisory committee's report. Probably he had little or no awareness of this event, notwithstanding the publicity given it by the news media. In several years, say 1969, he will be faced with deciding whether or not to smoke. The level of publicity and public awareness relevant to his decision will not be that of January 1964 or that of today, but that of 1969. We cannot predict now what the level will be then.

Even if it be assumed—we think contrary to fact—that publicity concerning the health hazards of smoking has been so unusually widespread and intensive that it should have sufficed to bring home the dangers of smoking to everyone, consideration must be given to the countervailing effects of the industry's consistent refusal to acknowledge the existence of such health hazards, its past denials of their existence, and, most important, its long-continued and massive advertising, the tendency of which to neutralize public awareness of the health hazards of smoking has already been discussed. Not only has cigarette advertising failed to disclose the dangers of smoking; it has obscured them.[18] It is anomalous for the industry to point to publicity concerning these dangers, which originates outside the industry and which the industry, whether intentionally or not, has endeavored in its advertising to cloud and obscure, as an excuse for the industry's failing to fulfill its obligation to make the consuming public aware of the dangers.[19]

Moreover, the simple fact that advertising for cigarettes has been and continues to be disseminated, particularly in the mass media, without any disclosure of the health hazards of smoking, breeds consumer misunderstanding of the extent to which smoking is an established, rather than merely a conjectured, danger. The members of the consuming public know that radio and television are regulated by the Government, and that a network of State and Federal laws exists to protect them from dangerous products and unfair or misleading advertising. When they witness the continued and unrestricted dissemination of cigarette advertising on radio and television and in other media their natural, instinctive reaction is that the danger of cigarette smoking cannot be an established fact—else government would take steps to restrict cigarette advertising, and, specifically, would require that such advertising include a disclosure of the danger. The record of this proceeding clearly indicates that such reactions are widespread.[20]

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[17] As noted in pt. III of this report, the marked shift in cigarette consumption from plain- to filter-tip cigarettes in the last ten years apparently reflects consumers' anxiety about the health consequences of smoking.

[18] See R. 243 (testimony of president of American Cancer Society). The State Director of Health of West Virginia states:

"I am sure you realize that members of the medical and public health professions have long been familiar with much of the research cited in the Report of the Advisory Committee to the Surgeon General of the Public Health Service on Smoking and Health. As best we can, we have attempted to integrate this knowledge with on-going programs as a means of combating the problem and especially to prevent adoption of the smoking habit by youth. For the most part, however, our efforts have had little effect. In my opinion this is due primarily to the tremendous forces allied against us, typified by the constant bombardment of the public through mass media with false and misleading advertising, tremendously influencing public attitudes toward smoking, and submerging, almost completely, the relatively small resources medicine and public health have been able to deploy in defense of their position." (Ex. 172, p. 1.)

[19] A recent article in Advertising Age, April 20, 1964, p. 40, col. 5, reports: "April sales of P. Lorillard Co. are running ahead of last year's, following a low point in February—thanks in part to 'record levels of advertising,' Morton J. Cramer, president, told the company's annual meeting today.

"Because of the Surgeon General's report and 'competitive considerations,' Lorillard's advertising reached record levels during the first quarter, he said. 'The decision to spend these record amounts was made in the full knowledge that commitments of this magnitude would significantly affect our already depressed earnings, but it has already been proved sound—by the turnaround in sales,' said Mr. Cramer."

[20] See R. 36 (testimony of Senator NEUBERGER); R. 156 (testimony of Dr. Salber); R. 243–44 (testimony of Dr. Scott, president of the American Cancer Society); R. 312–13 (testimony of Dr. Bock); R. 333 (testimony of Dr. Graham); Ex. 67 ("The requirement of notice of health hazard is necessary also to prevent a common implicit deception: Americans expect their Government to protect them from health hazards. Unless such a notice is required, a good number of Americans will think that cigarettes cannot be very hazardous if the Government permits their sale without notice"); Ex. 191 (letter from Professor Lilienfeld of the Johns Hopkins University School of Hygiene and Public Health); Ex. 440, p. 2 (letter from chairman of the Department of Psychology, Beaver College, Pennsylvania); Ex. 334 (letter from American Cancer Society); Exs. 295(d), p. 1; 372. The chairman of the Department of Sociology of the University of Wisconsin states:

"With regard to Rule 1, there is no question that this is a necessity if the image the cigarette advertising carries is to be altered. Currently, there is no implication that there are any dangers or potential hazards associated with cigarette smoking. Further, from my limited experience, it appears to be a most common assumption that the health hazards associated with cigarette smoking are trivial because no action is taken on the part of the Federal Government. There seems to be an implicit assumption on the part of a substantial number of persons that if there was something really wrong with cigarette smoking, the Government would do something about it. The Government has intervened dramatically in the case of obviously dangerous drugs and of immediate food hazards, and thus there is some obvious reliance on the Government for protection from such hazards. Since the dangers associated with smoking are less immediate, dramatic or coercive action certainly cannot be used. However, implicitly, until a caution such as is proposed under Rule 1 is instituted, a significant segment of the population will continue to believe that there is no hazard because no caution is required by the Federal Government." (Ex. 196.)

Dr. Saxon Graham of the Roswell Park Memorial Institute states:

"It is well known to the public that radio and television programing is regulated by the Federal Government. The frequent repetition of advertisements utilizing large amounts of time indirectly gives sanction to the content of these advertisements in the

The foregoing factors suggest that notwithstanding the publicity that studies and reports on the health hazards of cigarette smoking have received, the level of public awareness of those hazards has not reached the point at which to require disclosure of them in cigarette advertising and labeling would be superfluous. Lacking more reliable evidence of consumer understanding of those hazards, the Commission considers it necessary to resolve doubts on this score in favor of the public.

2. The implications of the Commission's action in the present matter for other consumer products: Another argument advanced against the Commission's proposal to require a cautionary statement in cigarette advertising and labeling relies on demonstrating a reductio ad absurdum. The argument is that if the Commission were to impose such a requirement on the cigarette industry, logic would require it to impose a similar requirement with respect to the advertising and labeling of such products as automobiles, butter, candy, and alcoholic beverages. Such products are, however, clearly distinguishable from cigarettes for purposes of requiring affirmative disclosure of health hazards. A few examples should make this clear.

There is some evidence that certain foods may increase the level of cholesterol in the blood and thereby seriously endanger the health of the eater. However, such evidence has not, to our knowledge, reached the point at which remedial action by this Commission would probably be warranted. We are aware of no counterpart to the Surgeon General's Advisory Committee on Smoking and Health which has found butter, eggs or any of the other common "rich" foods to be so hazardous as to warrant, in the Advisory Committee's words, "remedial action" (ACR 33). Should it some day become established that consumption of any of these foods is as dangerous as cigarette smoking, remedial action by the Trade Commission, the Department of Agriculture, or some other agency might be appropriate. We note, however, a number of significant distinguishing factors, in addition to the basic difference regarding the nature and weight of the evidence linking the product to disease and death, as between cigarettes and rich foods: Cigarette smoking is habit forming; it is peculiarly attractive to children and teenagers; and cigarette advertising has been massive and continuous—unlike, for example, egg advertising.

The relevance, from the standpoint of the need for advertising regulation, of the fact that cigarette smoking is habit forming has been emphasized by Dr. Joseph Berkson in a letter to the Commission:

"As respects the general question of cigarette advertising, it happens that I personally think there is a social case for some sort of control, quite apart from consideration of the specific health aspects of smoking under recent discussion, arising from the fact that cigarette smoking is 'habit forming.' It is common knowledge that a person who has smoked for a long time generally finds it difficult and in some cases virtually impossible, to give up smoking. This is not a 'psychologic' effect but a pharmacologic effect. As a matter of personal social philosophy I think the advertising of a consumer product which, once purchased, habituates the consumer to continue its purchase is in a quite different category, with respect to intensive advertising, from that of say automobiles, however possibly deadly the use of the latter may be." [Ex. 318(n), p. 2.]

It is also true that overindulgence in rich foods such as candy or butter may lead to obesity, a condition which is dangerous to health. But this, unlike smoking, is a problem of excess. The dangers of cigarette smoking are by no means confined to the excessive smoker; "normal" smoking is extremely dangerous as well. There is no known moderate or safe level of cigarette consumption.[21] Certainly the one-pack-a-day smoker—and even a person who smokes fewer than 10 cigarettes a day—incurs a grave risk to his life and health, as the mortality tables in the Advisory Committee's report make clear.[22] Significant in this regard is the Advisory Committee's finding that, "In comparison with nonsmokers, average male smokers of cigarettes have approximately a ninefold to tenfold risk of developing lung cancer" (ACR 31).

Moreover, there do not appear to be any accepted criteria for distinguishing "moderate" from "excessive" smoking. It would be more accurate to speak of degrees of excess. While we may assume that the normal person eats in moderation and does not become obese, we may not assume that the "normal" smoker is not seriously endangered by his habit. On the contrary, it appears that only the abnormal, atypical smoker—one, perhaps, who smokes only one or two cigarettes a day, or never inhales, or discontinues smoking after a few years—may escape seriously endangering himself.

The comparison of cigarettes and alcoholic beverages is also inexact. Alcoholism, along with its derivative physical ailments, is a very serious social problem, but it is a problem, again, of excess.[23] Alcohol in moderation is not generally considered deleterious to the health of the user. Indeed, it is frequently prescribed by doctors for the treatment of various ailments (see, e.g., R. 248).

Another significant point of contrast between alcoholic beverages and cigarettes has been made in the Report on Smoking and Health of the Royal College of Physicians of London: "While many if not the majority of people enjoy alcoholic drinks on relatively infrequent occasions, however, there are very few occasional smokers. Most smokers consume a regular daily amount of tobacco. It appears that smoking is generally much more habit forming than drinking."

But a more basic distinction between alcoholic beverages and cigarettes as far as compelled disclosure or health dangers in advertising and labeling is concerned is that the advertising, labeling, and sale of alcoholic beverages are subject to an elaborate network of public and private regulation that has no parallel in the cigarette industry. It is common knowledge that advertisements for hard liquor are not broadcast on radio or television, that liquor advertising has consistently eschewed the themes of romance, contentment, and sociability that figure so prominently in cigarette advertising, and that alcoholic beverages are

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viewers' eyes. In my own discussions with smokers, I have frequently heard the statement that, 'Smoking cannot be too bad for you, or the Government would not let them advertise on the television.' In effect, the Government is sanctioning smoking by allowing advertisers to use public television and radio time and the mails to advertise. Past research, which we and others have done, shows that the sanctions of authority-figures are very important in smoking. Thus, in families where parents and older siblings smoke, the probability that children will smoke is much increased. The effect of physicians' smoking on their patients' smoking habits has been observed by many of the interviewers in our studies." (Ex. 211, pp. 4–5).

In the words of the Royal College of Physicians of London, "Many smokers regard the lack of any official action against cigarette smoking as an indication that the evidence is at present 'only theoretical' or 'mere statistics.' If the Government does not consider it necessary to take action, it is argued, no action is as yet required of the individual." "Smoking and Health" 52 (1962) (Ex. B, App. II, Ex. 28, p. 52).

[21] The doctors and scientists who appeared before the Commission in this proceeding were unanimous on this point. See, e.g., R. 14–15 (testimony of Dr. Hundley, Vice Chairman of the Surgeon General's Advisory Committee), R. 245 (testimony of Dr. Scott, president of the American Cancer Society), R. 319 (testimony of Dr. Bock), R. 332 (testimony of Dr. Graham), R. 521–22 (testimony of Dr. Wynder); Ex. 529(n), p. 10 (submittal by Drs. Wynder and Hoffman of the Sloan-Kettering Institute). Dr. Scott explained:

Commissioner ELMAN. Is there a safe consumption level as far as cigarette smoking is concerned?

Dr. SCOTT. There must be, but I don't know what the level is. We know the less you smoke the lower your risk to lung cancer.

Commissioner ELMAN. Suppose a man smokes half a pack a day and figures all this about cancer applies only to a heavy smoker. What would you say to such a patient?

Dr. SCOTT. Well, I would say, "You are on the borderline, and if you have a reasonably high resistance to the effects of the nicotine and tar contents of the cigarette smoke, you probably will escape the serious effects of it. On the other hand, if you happen to have a low susceptibility to it—in other words, that your body is more responsive to the effects of the tars and nicotine content, then you are going to head for trouble."

You see, there is a natural variation in the person's susceptibility to even aspirin, and to any drug, for that matter, to any product, including nicotine and cigarette tars.

So this has to be taken into consideration, too. And this explains why everyone doesn't get it, even though they may smoke a pack a day.

Chairman DIXON. What would you tell your patients about smoking cigarettes, Doctor?

Dr. SCOTT. I tell my patients that if they are smoking half a pack or pack a day, they had better stop. If they are smoking a pack, they are surely headed for trouble.

Chairman DIXON. Very few people who smoke cigarettes smoke less than a pack.

Dr. SCOTT. Well, I don't know what the figures are. I would accept your statement as true. [R. 244–246.]

[22] The Surgeon General's Advisory Committee found: "For groups of men smoking less than 10, 10–19, 20–39, and 40 cigarettes and over per day, respectively, the death rates are about 40 percent, 70 percent, 90 percent, and 120 percent higher than for nonsmokers." (ACR 35–36). These figures make clear that even the light smoker runs a substantial risk of premature death in smoking, and the average pack-a-day smoker a very substantial risk indeed. Thus, "There is no threshold of consumption below which a smoker may hold his consumption and eliminate excess risk of death; all studies investigating a possible dose-response relationship indicate that even a small amount of cigarette smoking carries a substantially increased risk of death from lung cancer and other diseases. Thus, although the moderation concept may apply to advertising of liquor or other products, it is not cogent in regard to cigarettes. Moderation in smoking is associated with a significantly higher risk of death than that associated with no smoking." Letter from Dr. Saxon Graham of the Roswell Park Memorial Institute, Ex. 211, p. 4.

[23] The problem of drunken driving, which is also a serious problem of public safety, is not necessarily a problem of alcoholism. It is, however, dealt with by more stringent remedies than any requirement of disclosing the hazards of drunken driving in automobile advertising could provide—viz, criminal penalties.

labeled to disclose the alcoholic content. Advertising for alcoholic beverages is subject to comprehensive and detailed regulation by the U.S. Treasury Department and conforms to stringent industrywide codes which long predate any efforts by the cigarette industry at systematic self-regulation.[24] The places in which alcoholic beverages may be purchased, and even the prices of alcoholic beverages, are commonly fixed by State law. The Federal Constitution, of course, expressly permits local prohibition of the sale of alcoholic beverages. And the sale of alcoholic beverages to minors is carefully regulated.

The short of it is that alcoholic beverages have been recognized by law, by government, and by industry as a dangerous product, and their sale, advertising, labeling, and even use[25] are regulated to a degree wholly unknown in the cigarette industry. The necessity for additional regulation in the form of compelled disclosure of dangers in all advertising and labeling presents, therefore, a quite different question from the case of cigarettes.

The automobile is undoubtedly a dangerous instrumentality. Here again, however, society has already taken specific and substantial steps to protect the public from physical injury. No person may drive without a license. Numerous laws, many providing for heavy penalties, regulate the use of the automobile. Many States have comprehensive inspection requirements to insure the safety of automobiles. Driving by minors is strictly regulated. In light of the extensive and explicit public concern, manifested in a great network of legal regulations, for safe driving, it is most improbable that a significant number of automobile purchasers are unaware that the automobile is a dangerous instrumentality. Society has taken most elaborate pains to bring this truth home to every driver. There is no parallel in the case of cigarettes. For example, no license is required to smoke a cigarette, and smoking by minors is a matter largely of parental, not public, regulation. The absence of a comprehensive scheme for the regulation of the cigarette industry at all comparable to that which governs automobiles and driving makes it imperative that the Commission so enforce section 5 as to insure at least minimal public knowledge of the hazards of smoking.

To deny that cigarettes are, for present purposes, comparable to butter, candy, liquor, or automobiles is to affirm that the principle requiring disclosure of a product's hazards in labeling and advertising should not be applied mechanically or uncritically, or pushed to an absurd extreme. It can be applied only on the basis of the specific and concrete facts and circumstances pertaining to the particular product involved. Dangers that are obvious or generally known are not required by section 5 of the Trade Commission Act to be disclosed by the sellers. No one would suggest, for example, that every carving knife should carry a warning that the edge is sharp. Section 5 is concerned with unfair or deceptive acts or practices, and if the dangers of using a product are known, the seller's nondisclosure of them is unlikely to be either unfair or deceptive. It is a question of judgment, which cannot be answered by any simple or mechanical formula, whether in the particular circumstances the nondisclosure of a product's hazards carries a sufficient probability of substantial public injury to justify remedial action. It is also a question of judgment whether the appropriate remedy is a requirement of disclosure in labeling alone, or whether the requirement should extend to advertising.

The foregoing should dispel fears that the Commission's action in this proceeding has sweeping implications for the advertising and labeling of consumer products other than cigarettes. The Commission's conclusion that disclosure of the danger of use of the product is required by section 5 of the Trade Commission Act in all advertising and labeling of cigarettes is based on a combination of special factors not necessarily present in the case of any other product. This trade regulation rule should not be regarded as a precedent compelling similar regulation of the butter, candy, liquor, automobile, or other industries.

3. Whether the Commission should cede the problem of regulating cigarette advertising and labeling to Congress: It has been suggested that in view of the magnitude and public importance of the problem of cigarette advertising and labeling in light of the health hazards of cigarette smoking, the Commission should relinquish its jurisdiction of the problem and leave to Congress the task of devising an appropriate solution to it. Congress, however, delegated the task of preventing unfair or deceptive acts or practices in commerce to the Commission, and the advertising and labeling of cigarettes are clearly subject to the Commission's jurisdiction as created by Congress. We are now asked in effect to redelegate to Congress our responsibilities for preventing unfair or deceptive acts or practices in the cigarette industry. We are without power to do so, in the absence of action by Congress curtailing the Commission's jurisdiction.

Specifically, it is contended that the problem of cigarette advertising and labeling in relation to the health hazards of smoking should be left by the Commission to Congress, first, because the Commission is not competent to appraise the medical and scientific issues involved, and second, because the impact of Commission action on the prosperity of the cigarette industry, and on the national economy, is likely to be drastic. As to the first point, however, for reasons already stated we believe that the Commission is entitled, and indeed compelled, to accept the findings and conclusions contained in the report of the Surgeon General's Advisory Committee. Those findings and conclusions, which we deem authoritative, provide a comprehensive, reliable and fully adequate medical and scientific predicate for the rule and this report. It is premature to consider how in the future the Commission should deal with aspects of the smoking and health problem now before it in this proceeding.

So far as the impact of this trade regulation rule on the cigarette industry, and derivatively on the total national economy, is concerned, the catastrophic consequences of Commission action predicted by some of the witnesses at the public hearings in this matter are entirely too speculative to warrant the Commission's failing to perform its clear statutory duties. It is suggested that, should disclosure of the hazards of cigarette smoking be required in all advertising and labeling, the consumption of cigarettes would immediately decline so severely as to cause great hardship to the industry, and consequent dislocation to the economy as a whole due to the importance of the industry to the national economy. If, however, as this suggestion presupposes, the industry's failure to disclose in its advertising and labeling the hazards of smoking is principally responsible for the present high level of cigarette consumption—if substantially fewer cigarettes would be consumed if the dangers of smoking were disclosed to the public in cigarette advertising and labeling—that would seem to make more rather than less imperative the necessity of immediate action by the Commission to compel such disclosure.

Be that as it may, the precise effect that the Commission's action would have on the cigarette industry, let alone on the national economy as a whole, cannot be even roughly estimated at this time. Even assuming that the Commission is authorized to permit the continuation of unlawful marketing practices, in a form endangering human life and safety, on grounds of economic hardship, it plainly may not do so where, as here, the probability of such hardship is completely uncertain. We note that the witnesses who argued economic hardship at the public hearing did so in the form of naked assertion. No supporting data were adduced that would afford the Commission more than a purely conjectural basis for assessing the economic hardship, if any, that compliance with the trade regulation rule promulgated herewith would entail.

4. Whether cigarette advertising and labeling should be left to industry self-regulation: At the public hearings in this matter, the spokesman for the Tobacco Institute recommended that the entire problem of eliminating unfair or deceptive acts or practices from cigarette advertising and labeling be left for solution by cooperative action among the members of the cigarette industry. It was stated at that time that the industry was working on advertising guidelines, but no details were given.

However, no industry representative has indicated that cigarette manufacturers are willing to disclose the health hazards of cigarette smoking in advertising and labeling, as proposed in rule 1 in the Commission's notice of this rulemaking proceeding. The trade regulation rule now being promulgated by the Commission thus covers an area which the industry has not yet given any indication it intends to enter. Proposed rules 2 and 3 relate to affirmative deceptive and unfair representations in advertising and labeling. In this report, the Commission has

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[24] Federal Alcoholic Administration Act of 1935, 40 Stat. 984, as amended, 27 U.S.C. § 205(f). See O'Neill "Federal Activity in Alcoholic Beverages Control," 7 Law & Contemp. Prob. 570 (1940).

"The Federal agency charged with the regulatory powers over advertising of intoxicating beverages is the Alcohol and Tobacco Tax Division of the Internal Revenue Service. The source of this unit's authority over the interstate liquor trade is derived from the Federal Alcoholic Administration Act of 1935, which empowers the Division to promulgate regulations and standards necessary to insure truthful advertising. The authority so vested seems more extensive than that delegated to the other administrative agencies considered. Not only does the Division have the authority to act against deceptive and misleading representations but it may, under its power to implement the statute by formulating its own standards, require the affirmative disclosure of pertinent information in advertisements. This is the basis for regulations necessitating the inclusion in all liquor advertisements of the name and address of the advertisers, the class and type of the product, and the alcoholic content of the beverage. This function may be described as insuring not only truthful advertising but also informative advertising. To implement these provisions an elaborate and detailed classification as to vintage, alcohol content, type, etc. is provided as a guide by which the sufficiency and accuracy of the representations can be judged. Label identification and misbranding are likewise closely supervised by the Division, and all labels must be submitted for approval before use. The effect of this extensive rulemaking power has been to transform the liquor business into the most thoroughly regulated and carefully supervised of all industries." Note, "The Regulation of Advertising," 56 Col. L. Rev. 1018, 1049–50 (1956). See also id., at 1066 (state regulation of liquor advertising).

[25] For example, laws forbidding drunken driving regulate the use, rather than the sale as such, of liquor.

dealt at length with such practices. We have declared the standards of conduct to which the members of the cigarette industry must conform in order to avoid violation of the Trade Commission Act. The industry has indicated an intention of acting voluntarily to end undesirable practices in the area covered by proposed rules 2 and 3, and should the industry succeed in eliminating such practices, there will be no need for formal Commission action. The Commission has therefore determined not to adopt proposed rules 2 and 3, or any similar provision, at this time as formal trade regulation rules, even though the record of this proceeding, and this report, fully justify doing so. The Commission will maintain a close surveillance of the industry's efforts to eradicate, through voluntary efforts, all traces of unfairness and deception in affirmative representations or suggestions in all cigarette advertising and labeling.

5. Whether the Commission should postpone all action pending completion of "phrase II": The study of smoking and health conducted under the direction of the Surgeon General of the U.S. Public Health Service was planned to include two phases. Phase I was the technical phase; it was completed with the publication of the Advisory Committee's Report. "Recommendations for actions were not to be a part of the phase I committee's responsibility. No decisions on how phase II would be conducted were to be made until the phase I report was available. It was recognized that different competencies would be needed in the second phase and that many possible recommendations for action would extend beyond the health field and into the purview and competence of other Federal agencies." (ACR 8.) To date, no final decisions as to the conduct of phase II have, so far as the Commission is aware, been made.

At the public hearings in this matter, it was argued that the Commission ought to withhold any remedial action pending the completion of phase II. (See, e.g., R. 395.) This argument misconceives the scope and purpose of phase II. In planning on separate phases, technical and remedial, the Public Health Service and the other interested bodies were aware that, depending on the technical conclusions in the first phase regarding the hazards of smoking, special remedial action might be appropriate—for example, a campaign of public information and education, or greatly increased research—involving various public and private bodies. (See ex. 516(b), letter from Assistant to the Surgeon General for Information.) Phase II was to be concerned with such action. There was, however, no intention expressed that phase II should entail a moratorium on the enforcement of laws governing unfair or deceptive acts or practices in the cigarette industry, or on any other law-enforcement activities, whether undertaken by the Federal Trade Commission or by any other governmental agency.

This trade regulation rule proceeding, and the rule promulgated herewith, do not constitute special or extraordinary remedial action within the scope or contemplation of phase II of the Surgeon General's study. As the Governor of Kentucky stated in this proceeding, "Government agencies set up to protect the public should provide the strongest protection possible from those who would abuse or prey upon the public."[26] It was not the intention of those who devised the Surgeon General's study to attenuate this duty. Phase II does not excuse the Commission from enforcing the Federal Trade Commission Act in the cigarette industry; it does not warrant an indefinite moratorium on the Commission's fulfilling its presently existing statutory responsibilities. Accordingly, the Surgeon General of the Public Health Service, far from accusing the Federal Trade Commission of having jumped the gun on phase II, has announced the support of the Public Health Service for this trade regulation rule proceeding.[27]

VI. THE FEDERAL TRADE COMMISSION'S RULE-MAKING AUTHORITY

This proceeding for the promulgation of trade regulation rules for the advertising and labeling of cigarettes is authorized by the provisions of subpart F of the Commission's Procedures and Rules of Practice (effective August 1, 1963),[28] and has been conducted in accordance with the procedures specified in that subpart.[29] In his opening remarks at the public hearings on the proposed rules, the Chairman of the Commission described the trade regulation rule procedure in the following words:

"A trade regulation rulemaking proceeding is not adjudicative in character. It is not a proceeding to determine whether or not particular persons or companies have violated the laws administered by the Commission. It is prospective, not retrospective, in its application. Its purpose is to determine for the future whether certain business practices, if followed by the members of an industry, would be unlawful. Trade regulation rules are not legislative in the sense of adding new substantive rights or obligations. Trade regulation rules do not broaden or expand the prohibitions contained in the statutes administered by the Commission, but, rather, define their application to specific practices or a specific industry within the jurisdiction of the Commission. Before

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[26] R. 435. Similar views were expressed by Congressmen from tobacco states. E.g., "our government, through this Commission, and through other appropriate agencies, has a responsibility to let the American people know that certain things may be hazardous" (R. 440, Congressman FOUNTAIN); "I believe that deceptive advertising by tobacco companies and all other American companies and businesses should be prohibited." (R. 445, Congressman TAYLOR.) It was not suggested that the Commission's statutory duties of law enforcement have been suspended by the provisions for Phase II.

[27] "The Federal Trade Commission promptly and courageously announced the action it intends to take within a week following release of the Advisory Committee's Report, actions designed to prevent the people of this country from being deceived or misled by cigarette advertising. We intend to support the Federal Trade Commission in their proposed actions—because we are convinced that the American people have been deceived and misled by cigarette advertising—and their health has been harmed as a consequence." Address of Surgeon General Luther L. Terry to the National Press Club, February 25, 1964 (R. 148).

[28] Section 1.63 of the Procedures and Rules of Practice provides:

"Trade Regulation Rules.—(a) Nature and authority.—For the purpose of carrying out the provisions of the statutes administered by it, the Commission is empowered to promulgate rules and regulations applicable to unlawful trade practices. Such rules and regulations (hereinafter called "trade regulation rules") express the experience and judgment of the Commission based on facts of which it has knowledge derived from studies, reports, investigations, hearings, and other proceedings, or within official notice, concerning the substantive requirements of the statutes which it administers.

"(b) Scope.—Trade regulation rules may cover all applications of a particular statutory provision and may be nationwide in effect, or they may be limited to particular areas or industries or to particular product or geographic markets, as may be appropriate.

"(c) Use of rules in adjudicative proceedings.—Where a trade regulation rule is relevant to any issue involved in an adjudicative proceeding thereafter instituted, the Commission may rely upon the rule to resolve such issue, provided that the respondent shall have been given a fair hearing on the legality and propriety of applying the rule to the particular case."

Under this procedure, the Commission has already issued trade regulation rules for the sleeping-bag, dry-cell battery, and binocular industries.

[29] Commission rulemaking procedures are set forth in § § 1.66–67 of the Procedures and Rules of Practice, which provide:

"§ 1.66 Initiation of Proceedings—Petitions.—Rulemaking proceedings may be commenced by the Commission upon its own initiative or pursuant to petition therefor filed with the Secretary by any interested person or group. Procedures for the amendment or repeal of a rule are the same as for the issuance thereof.

"§ 1.67 Procedure.—(a) Investigations and conferences.—In connection with any rulemaking proceeding, the Commission at any time may conduct such investigations, make such studies, and hold such conferences as it may deem necessary. All or any part of any such investigation may be conducted under the provisions of subpart D of part 1 of these rules.

"(b) Notice.—General notice of proposed rulemaking will be published in the Federal Register, and, to the extent practicable, otherwise made available to interested persons. Such notice will include (1) a statement of the time, place and nature of the public proceedings; (2) reference to the authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

"(c) Participation by interested persons.—(1) Submission of written data, views or arguments.—In all rulemaking proceedings the Commission will afford interested persons an opportunity to participate in the proceeding through the submission of written data, views or arguments.

"(2) Oral hearings.—Oral hearings on a proposed rule may be held within the discretion of the Commission. Any such hearing will be conducted by the Commission, a member thereof, or a member of the Commission's staff. At the hearing interested persons may appear and express their views as to the proposed rule and may suggest such amendments, revisions and additions thereto as they may consider desirable and appropriate. The presiding officer may impose reasonable limitations upon the length of time allotted to any person; if by reason of the limitations imposed the person cannot complete the presentation of his suggestions, he may within twenty-four (24) hours, file a written statement covering those relevant matters which he did not orally present. A transcript of the hearing shall be made and shall constitute a part of the record of the proceeding.

"(d) Promulgation of rules.—The Commission, after consideration of all relevant matters of fact, law, policy and discretion, including all relevant matters presented by interested persons in the proceeding, may adopt and publish in the Federal Register an appropriate rule, together with a concise general statement of its basis and purpose and any necessary findings.

"(e) Effective date of rules.—The effective date of any rule, or of the amendment, suspension or repeal of any rule will be specified in the notice published in the Federal Register, which date will be not less than thirty (30) days after the date of such publication except as otherwise provided by the Commission upon good cause found and published with the rule."

such a rule is promulgated by the Commission, all interested persons are given full opportunity to present data, views and arguments relevant to whether the rule should be adopted.

"If after the Commission has promulgated a rule any person or company continues to engage in conduct forbidden by the rule, and the Commission issues a complaint alleging that such conduct is in violation of a statute enforced by the Commission, the Commission may, in such an adjudicative proceeding, rely on the rule to the extent that it is fair and proper to do so. In a subsequent adjudicative proceeding where a trade regulation rule is relied upon, the respondent may challenge the legality and propriety of relying upon the rule in the particular case." [R. 5–6.]

At the public hearings, the question was raised whether the Commission is authorized by the Trade Commission Act to conduct a trade regulation rule proceeding (see, e.g., R. 45–46, 53–54, 57, 180–90). This part of the report considers that and related questions concerning the Commission's rulemaking authority.

A. The lawfulness of the trade regulation procedure

1. The nature of trade regulation rules: Section 2(c) of the Administrative Procedure Act provides: " 'Rule' means the whole or any part of any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy." In a leading case, the Supreme Court has stated: "Unlike an administrative order or a court judgment adjudicating the rights of individuals, which is binding only on the parties to the particular proceeding, a valid exercise of the rulemaking power is addressed to and sets a standard of conduct for all to whom its terms apply. It operates as such in advance of the imposition of sanctions upon any particular individual." *Columbia Broadcasting System* v. *United States*, 316 U.S. 407, 418 (1942).

Section 5(a)(1) of the Federal Trade Commission Act declares unlawful all unfair methods of competition, and unfair or deceptive acts or practices, in interstate commerce. The basic and comprehensive grant of power to the Commission to enforce section 5(a)(1) is contained in section 5(a)(6), which empowers and directs the Commission to prevent the use of such unfair and deceptive methods, acts, and practices. The promulgation of a trade regulation rule is an exercise of the power and duty created by section 5(a)(6). The issuance of a cease-and-desist order under section 5(b) is merely one form of exercising the general power conferred by section 5(a)(6). A trade regulation rule, to use the language of the Supreme Court, "is addressed to and sets a standard of conduct for all to whom its terms apply. It operates as such in advance of the imposition of sanctions upon any particular individual." The Supreme Court has held that "the choice made between proceeding by general rule or by individual, ad hoc litigation is one that lies primarily in the informed discretion of the administrative agency." *S.E.C.* v. *Chenery Corp.*, 332 U.S. 194, 203 (1947).

The Commission's Procedures and Rules of Practice make clear,[30] as does the Commission's formal notice commencing the present proceeding, that "Trade regulation rules do not enlarge * * * [the] substantive legal prohibitions [of the statutes which the Commission administers], but define and particularize them as applied to specific problems and conditions."[31] Nevertheless, a position frequently taken at the public hearings in this matter by opponents of the Commission's proposed rules was that the proceeding is ultra vires because the Commission has not been authorized by Congress to promulgate rules having the force and effect of law.[32] This position rests, however, on a manifestly false premise.

Congress delegated to the Commission the task of preventing unfair trade practices. It did this, as noted in part IV of this report, because it felt that conventional judicial processes were not well suited to such a task and that it might better be performed within the framework of the administrative process. Undoubtedly, Congress intended the Commission to have a range of powers and procedures adequate to the fair and effective discharge of its delegated responsibilities. On the other hand, Congress has determined, notably in the Administrative Procedure Act, that agency action which infringes traditional procedural rights, such as the right to a fair hearing, should not be permitted. The interest in flexible and effective administrative action, and the interest in protecting the rights of persons subject to the agency's jurisdiction, must both be effectuated. The question is whether the Commission's trade regulation rule procedure, as applied to the problems of cigarette advertising and public health (insofar as such problems are within the statutory jurisdiction and responsibilities of the Commission), is a lawful exercise of its duty to prevent unfair or deceptive trade practices, or whether it infringes the rights conferred by the Administrative Procedure Act or elsewhere or is otherwise outside of the Commission's authority. The question is not answered by mechanical reliance on a division of all rules into "interpretive" and "legislative."

2. Rulemaking versus adjudication in the administrative process: Every tribunal that decides cases—even a Federal court established under article III of the Constitution—is perforce engaged in substantive rulemaking. The common law is a body of judge-made substantive rules, principles, and prescribed standards of conduct. For example, the Federal courts have developed a host of so-called per se rules under the Sherman Act. These principles are glosses upon, not provisions to be found in, the language of the Sherman Act. Such rules represent the efforts of the courts to define and particularize the requirements of the act. Needless to say, there is no statute which permits judges to make rules in this fashion. None is necessary. The laying down of substantive principles in the course of adjudication is inherent in the adjudicative process. Cf. *Erie R. Co.* v. *Tompkins*, 304 U.S. 64 (1938).

If the courts may and do make rules in the course of adjudicating, a fortiori the Commission may—and indeed is under a positive obligation to—engage in substantive rulemaking in its adjudications. As noted in part IV of this report, the Commission, in the enforcement of section 5 of the Trade Commission Act, has duties which transcend the narrowly adjudicative. Congress could have enumerated, and specifically proscribed, all of the trade practices it considered "unfair." Had it done so, the Commission's task would have been simply to apply the law as given to the facts as found in particular cases. For reasons of practicality, however, the task of elaborating substantive principles and defining standards of forbidden conduct—of filling in the bare policy outline drawn by Congress when it determined that unfair methods of competition in commerce should be outlawed—also was delegated to the Commission. The Commission has been made responsible not only for the prevention of unfair or deceptive practices, but also, and as a necessary threshold step, for the definition of such prohibited practices. It was the intention of its founders that the Commission would act creatively and imaginatively, within the broad contours of section 5, to create an up-to-date body of trade regulation law. Even if the Commission had never undertaken a single rulemaking proceeding, but had confined itself exclusively to the adjudicative framework provided in section 5(b) of the Trade Commission Act, it could not have avoided continual involvement in substantive "rulemaking" and still have remained faithful to its mandate. Nor has it avoided such involvement. The law of deceptive practices did not exist in 1914; it was created by the Commission. It is a body of substantive principles and defined standards of conduct, virtually all of which were established by the Commission in adjudicative proceedings.

To say that an administrative agency like the Commission has a responsibility for substantive rulemaking, as well as for adjudication in its narrow sense, is another way of saying that the agency has a positive role to play in the definition of legal standards. A common criticism of the Federal administrative agencies has been that they devote their attention unduly to the strictly adjudicative part of their task—settling disputes and assessing liability for past acts—and slight the critical function of formulating substantive policy and legal standards.[33] The Commission, no less than agencies having regulatory duties with respect to specific industries, has such a function. It is to determine what trade practices should be forbidden as unfair or deceptive. Congress confided the making of these determinations to the Commission; and whether made in formal rulemaking proceedings or in adjudicative proceedings, they constitute the substantive principles and standards of trade regulation law.

The question, then, is not whether the Commission may declare substantive standards and principles, for it plainly may and must. The question is whether the Commission may, in appropriate matters—specifically, the matter of cigarette advertising and labeling in relation to the health hazards of cigarette smoking—utilize the procedures of the formal rulemaking proceeding to promulgate substantive standards or principles, or whether it may promulgate them only in the course of adjudication. The latter course is always open to the Commission. However, there may be serious disadvantages, both to the agency and to the persons subject to its jurisdiction, where substantive rulemaking is conducted exclusively as a byproduct of adjudication. We

[30] Compare Section 1.63, supra note 127, with Section 1.65, which provides: "Rules having the force and effect of law are authorized under Section 6 of the Wool Products Labeling Act of 1939, Section 8 of the Fur Products Labeling Act, Section 5 of the Flammable Fabrics Act, and Section 7 of the Textile Fiber Products Identification Act." Section 1.64 provides: "Quantity limit rules are authorized by Section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act. These rules have the force and effect of law."

[31] App. C, infra. See also the Chairman's opening remarks at the public hearings in this matter, quoted supra.

[32] See, e.g., R. 53–54, 83–F, 83–I, 188–89. Witnesses frequently referred to rules having the force and effect of law as "substantive." See, e.g., R. 57–58, 64. However, any rule, even a purely advisory one, is "substantive" if it deals with the substantive requirements of the laws administered by the agency (in contrast to the agency's rules of practice or other procedural regulations).

[33] See, e.g., Friendly, The Federal Administrative Agencies: The Need for Better Definition of Standards (1962); Redford, National Regulatory Commissions: Need for a New Look (1959); Landis, Report on the Regulatory Agencies to the President-Elect 22–24 (1960); Task Force Report on Regulatory Commissions 40–42 (1949); Hector, "Problems of the CAB and the Independent Regulatory Commissions," 69 Yale L. J. 931 (1960).

shall consider some of these disadvantages briefly in this section.[34]

(1) The Administrative Procedure Act, in its provisions governing formal rulemaking proceedings, requires that all interested persons be given an opportunity to express their views on a proposed rule before it is finally adopted (sec. 4(b)). The reason for such a requirement is obvious. Those who will be subject to a rule should have an opportunity to criticize it or suggest modifications. And, quite apart from considerations of fairness, their participation in the rulemakng process is likely to assist the agency in formulating a practical and sound rule. Where rules are made, not in formal rulemaking proceedings, but in adjudicative proceedings, the requirement is ordinarily not met. Views of all interested persons are not solicited or received—only the views of the particular litigants. Though a decision may have far-reaching significance by reason of the rule it lays down, and affect many persons besides the particular litigants, only the latter will have participated in the rulemaking process; and, in many cases, even they will have had no opportunity to express their views on the rule declared by the court or tribunal. See, e.g., *Erie R. Co.* v. *Tompkins, supra.*

(2) The kind of record made in an adjudicative proceeding is usually not tailored to the needs of rulemaking. The rules of evidence, and other procedural safeguards governing trial-type hearings, have been developed with an eye toward the determination of so-called "adjudicative" facts—who did what, where, when, why, etc. Experience has shown that issues of this sort can be most satisfactorily dealt with only if the traditional procedural rights, e.g., cross-examination, are faithfully observed. But the procedures designed for determining individual liability are not necessarily well adapted to the ascertainment of such "nonadjudicative" matters of fact, policy, and discretion upon which rules of general application are based.[35] Hence, in formulating a substantive standard or rule, courts and tribunals frequently must rely on considerations outside the record of the particular case in which the general principle is formulated.[36] They may go to the records of prior cases, or they may rely upon sources, such as articles in scholarly journals (or their own general knowledge and experience), that are contained in no record. These are useful and proper approaches, but they have their limitations. The records of earlier cases may give a broader picture of the considerations relevant to formulating a rule of general application than the record of the particular case to be decided, but it may not be broad enough, especially if a novel problem area is involved. If the court or tribunal engages in private research or draws upon its private experience, the parties, and other persons who will be subject to the rule, may have neither notice of, nor opportunity to refute, the authorities or other sources relied upon.

To predicate rules developed in the course of adjudication on matters outside the actual record of the case is a traditional and necessary incident of the judicial and administrative processes. It is done constantly. It has been expressly sanctioned by the Supreme Court in the context of administrative adjudication, the Court emphasizing that the agencies are intended, and not merely permitted, to decide cases on the basis of their broad knowledge and experience as well as the actual record.[37] But clearly it may not be a completely ideal method of rulemaking in all situations.

(3) A related point is that adherence to the adjudicative method of rulemaking precludes the agency from utilizing those methods of gathering and assessing facts that are peculiarly appropriate to the needs and conditions of rulemaking. The congressional committee hearing is an example of how a body having legislative responsibilities proceeds in the formulation of policy. The records of such hearings contain matters of fact, arguments of law, and considerations of policy and discretion—the views, data, and arguments of all interested persons. Congress does not rely upon trial-type proceedings in order to formulate the content of legislation. For an agency to limit itself to such proceedings in formulating the content of rules having general application seems, therefore, a practice of doubtful merit. It involves the danger of cutting the agency off from systematic access to the broad range of considerations that must be taken into account in the rulemaking, in contrast to the narrowly adjudicative, process.

(4) In an adjudicative proceeding, the agency is precluded by the separation-of-functions provision of the Administrative Procedure Act (sec. 5(c)) from consulting those members of its staff who have played a prosecuting or investigative role in that, or a factually related, case. The agency is thereby prevented from fully utilizing its expertise, for an agency's expertise resides in large part in its staff, especially those members of the staff who have firsthand familiarity with the relevant facts. In a rulemaking proceeding, the separation-of-functions provision does not apply, there being no adversary proceeding, and the agency may draw freely on the knowledge and experience of its staff. It seems clear that an agency's ability to formulate substantive standards must be impaired when full access to its own staff is denied.

(5) The very conception of a rule having application beyond the facts and parties of the particular case, in contrast to an order or judgment, suggests the relative unsuitability of adjudication as a method of rulemaking. Rulemaking through adjudication is not always completely fair and evenhanded in its results. This is especially true where a practice sought to be eliminated is industrywide, and the agency sues the members of the industry one by one to stop the practice. The firm that first becomes subject to a final order or decree will be placed at an unfair competitive disadvantage vis-a-vis its competitors; therefore each firm may feel compelled to litigate in order to preserve competitive equality. Since an order or judgment must be based on a finding of individual liability in respect of past practices, one or more firms, though within the rule properly applicable to the industry as a whole, may be able to obtain dismissal of their complaints (e.g., for failure of proof) and thereby enjoy a competitive advantage over those firms that are under order.

Such inequities are inevitable concomitants of industrywide regulation by the case-by-case adjudicative method. The Supreme Court has therefore held, with specific reference to the Federal Trade Commission, that the courts are not to attempt themselves to redress such inequities.[38] But a rule promulgated in a formal rulemaking proceeding is uniform and prospective in its application. With its promulgation, all who are subject to it stand alike, subject to exactly the same duties.

(6) Rulemaking exclusively by adjudication tends to divert an agency from performing perhaps its primary and most salutary function, which is to provide guidance to the businessmen subject to its jurisdiction as to the requirements of law and thereby obviate the waste and uncertainty of litigation. The focus in adjudication is on settling a dispute over past practices, and while a rule may be announced in the process, it tends to be done incidentally and without sufficient concern for laying down clear

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[34] Many of the points discussed in this section are more fully developed in Peck, "The Atrophied Rule-Making Powers of the National Labor Relations Board," 60 Yale L. J. 729 (1961), and Baker, "Policy by Rule or Ad Hoc Approach—Which Should It Be?" 22 Law & Contempt. Prob. 658 (1957).

[35] "The test of the judicial process, traditionally, is not the fair disposition of the controversy; it is the fair disposition of the controversy upon the record as made by the parties. [For the administrative] process to be successful in a particular field, it is imperative that controversies be decided as 'rightly' as possible, independently of the formal record the parties themselves produce. The ultimate test of the administrative is the policy that it formulates, not the fairness as between the parties of the disposition of a controversy on the record of their own making." Landis, The Administrative Process 38–39 (1938).

[36] A classic instance of this process is *Durham* v. *United States,* 94 U.S. App. D.C. 228, 214 F. 2d 862 (1954), where a new rule governing the defense of insanity in criminal proceedings was formulated on the basis of extensive extra-record materials.

[37] See *Republic Aviation Corp.* v. *N.L.R.B.,* 324 U.S. 793 (1945); *Radio Officers' Union* v. *N.L.R.B.,* 347 U.S. 17, 48–49 (1954); *N.L.R.B.* v. *E. & B. Brewing Co.,* 276 F. 2d 594, 598 (6th Cir. 1960). Cf. *N.L.R.B.* v. *Seven-Up Bottling Co.,* 344 U.S. 344 (1953). That agency expertise, as well as record evidence, can support a finding of unlawfulness has been held with specific reference to the Trade Commission. "The Commission is not required to sample public opinion to determine what meaning is conveyed to the public by particular advertisements. The Commission, which is deemed to have expert experience in dealing with these matters * * * is entitled to draw upon its experience in order to determine, in the absence of consumer testimony, the natural and probable result of the use of advertising expressions." *E. F. Drew & Co.* v. *F.T.C.,* 235 F. 2d 735, 741 (2d Cir. 1956).

[38] "In view of the scope of administrative discretion that Congress has given the Federal Trade Commission, it is ordinarily not for courts to modify ancillary features of a valid Commission order. This is but recognition of the fact that in the shaping of its remedies within the framework of regulatory legislation, an agency is called upon to exercise its specialized, experienced judgment. Thus, the decision as to whether or not an order against one firm to cease and desist from engaging in illegal price discrimination should go into effect before others are similarly prohibited depends on a variety of factors peculiarly within the expert understanding of the Commission. Only the Commission, for example, is competent to make an initial determination as to whether and to what extent there is a relevant 'industry' within which the particular respondent competes and whether or not the nature of that competition is such as to indicate identical treatment of the entire industry by an enforcement agency. Moreover, although an allegedly illegal practice may appear to be operative throughout an industry, whether such appearances reflect fact and whether all firms in the industry should be dealt with in a single proceeding or should receive individualized treatment are questions that call for discretionary determination by the administrative agency. It is clearly within the special competence of the Commission to appraise the adverse effect on competition that might result from postponing a particular order prohibiting continued violations of the law. Furthermore, the Commission alone is empowered to develop that enforcement policy best calculated to achieve the ends contemplated by Congress and to allocate its avalaible funds and personnel in such a way as to execute its policy efficiently and economically." *Moog Industries* v. *F.T.C.,* 355 U.S. 411, 413 (1958) (per curiam). See Note, 13 Rutgers L. Rev. 315 (1958).

guidelines for the future. Most often, rules contained in adjudicative decisions, whether judicial or administrative, are not designated as rules or stated in the form of rules. The rule must be inferred from the language of the opinion and the facts of the case; it is implicit rather than explicit; and it may remain controversial and uncertain until many subsequent adjudications have refined and clarified it. It may take a long time for a rule even to be recognized and understood as such.

The importance of rules which are understood from the outset as defining—clearly, comprehensively, and particularly—the lawful limits of future conduct is enhanced in the context of an agency, such as the Federal Trade Commission, whose role is preventive rather than punitive and whose task is the supervision of trade practices of competing businessmen. As noted in part IV of this report, the original proposals for a trade commission were supported by the business community, which hoped that greater certainty could be introduced into trade regulation law; and in giving the Commission a sweeping mandate but limited remedial powers—precatory rather than truly injunctive—Congress probably assumed that once the Commission clearly defined a practice as unfair, businessmen would abandon it. It is a fair assumption, surely, that so long as competing businessmen "know where they stand and that they all stand alike" (Friendly, op. cit. supra note 132, at 7) they are not likely to violate the law; that in the trade regulation area, at least, law violations stem more from competitive pressures and legal uncertainty than from wilfulness; and that, therefore, a formal rule, clearly designated as such, which states the requirements of law clearly and particularly and has a uniform prospective application to a whole industry will frequently be a more effective method of law enforcement, encouraging voluntary compliance and discouraging litigation, than the conventional case-by-case method.

"Businessmen are glad, as a rule, to lend their support to voluntary and simultaneous abandonment of bad practices. They welcome the chance to wipe the slate clean. The overwhelming majority are unwilling to stoop to unfair tactics. At times some may feel that they must do so in order to meet in kind the unfair or unethical competition of less scrupulous competitors. It is often the case that various concerns would like to abandon their use of unfair or unethical methods if they can but be assured that their competitors will likewise stop and not take advantage of the situation." [T.N.E.C. Monograph No. 34, Control of Unfair Competitive Practices Through Trade Practice Conference Procedure of the Federal Trade Commission, p. 15 (1941).]

(7) If the tribunal in an adjudicative proceeding is too intent upon fashioning rules for future guidance, the task of rendering a fair result on the record before it may be slighted. Since the task of assessing individual liability on the basis of past practices and the task of fashioning rules of general application for future guidance are different, it has been argued that a tribunal which seeks to lay down broad rules in deciding individual cases may frequently fail to do complete justice to the parties before it.

(8) Rules made in adjudicative proceedings are ordinarily retroactive in application, while, under the Administrative Procedure Act, rules made in formal rulemaking proceedings (including, of course, trade regulation rules) are prospective only (sec. 2(c)). Retroactive application of a rule may often result in hardship. This is especially so where the rule embodies a novel legal principle and, therefore, is not readily foreseen. In a formal rulemaking proceeding, the possibility of undoing consummated transactions is excluded. Many authorities, including the Supreme Court, have on this ground urged the administrative agencies to act where possible prospectively through rulemaking proceedings.[39] It is fairer; it tends toward more equal treatment of competitors; and it may obviate hard-fought, protracted litigation induced by unwillingness to submit to harsh sanctions.

Although cease-and-desist orders of the Federal Trade Commission, like rules, speak to the future, they often carry retroactive consequences. Suppose that a firm, acting in good faith, adopts a trade name which the Commission later challenges as deceptive and, after prolonged litigation, orders excised; the firm is deprived of the value of its investment in the trade name, which may be very considerable. The matter would stand quite differently if prior to adopting the trade name the legality of the firm's action had been clearly defined in a trade regulation rule.

(9) Because a rulemaking proceeding looks to the future rather than to the past, it avoids the stigmatization of persons as law violators. One of the principal reasons why our legal traditions require so extensive an array of procedural safeguards to be afforded in adjudicative proceedings is that it is a grave step to adjudge a person or firm guilty of unlawful conduct. Not only may such a judgment have practical effects, i.e., as the basis of remedial or punitive sanctions, but it carries with it an inescapable element of moral condemnation. It is not unusual for a violation of law to be adjudged on the basis of a rule first declared in the very case, reflecting a new and perhaps unforeseen view of the law, and grounded in general facts or considerations not to be found in the actual record of the case. Businessmen naturally resent being branded as law violators in such a situation, and for that reason alone may be more inclined to engage in hard fought litigation. Establishing substantive standards or principles in formal rulemaking proceedings avoids this problem: A rule finds no one guilty.

(10) Rulemaking through adjudication may often be a prohibitively time-consuming, costly, and inefficient method of dealing with a problem common to an entire industry. Because of the procedural rights and safeguards which are a respondent's due in administrative, no less than in conventional civil or criminal, litigation, adjudicative proceedings before an agency are, beyond a point, irreducibly slow and costly affairs. These factors are greatly magnified where the practice sought to be suppressed is industrywide and many proceedings, rather than one, must therefore be conducted at the same time. In such a situation, reliance on the case-by-case adjudicative method not only may strain the agency's, and the respondents' resources, and delay effective relief indefinitely, but it may also involve considerable waste and duplication of effort, since common issues of fact are bound to recur throughout the series of proceedings.

A rulemaking proceeding affords an economical method of consolidating common issues of fact and law in a streamlined, but comprehensive and fair, proceeding having few of the cumbrous attributes of litigation. Since such a proceeding does not present questions of assessing individual guilt or innocence for past conduct, the strict procedural and evidentiary requirements of litigation are inapplicable.

We have indicated 10 reasons why a formal rulemaking proceeding may be preferable to an adjudicative proceeding, or series of adjudicative proceedings, from the standpoint both of government and the affected private parties, where the problem is one of fashioning a substantive standard to guide future conduct; and there are others. It is not surprising that the Supreme Court, and critics of the administrative process, have urged the agencies to give greater emphasis to rulemaking proceedings.[40] We do not suggest,

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[39] "Since the Commission, unlike a court, does have the ability to make new law prospectively through the exercise of its rulemaking powers, it has less reason to rely upon ad hoc adjudication to formulate new standards of conduct * * * The function of filling in the interstices of the act should be performed, as much as possible, through this quasi-legislative promulgation of rules to be applied in the future." *S.E.C.* v. *Chenery Corp.*, 332 U.S. 194, 202 (1947). See Landis, op cit. supra note 132, at 86–87; Friendly, "A Look at the Federal Administrative Agencies," 60 Col. L. Rev. 429, 437 (1960). Cf. Friendly, op. cit. supra note 132, at 20.

[40] See *S.E.C.* v. *Chenery Corp.*, 332 U.S. 194, 202 (1947); Friendly, supra note 138, at 436–37, 442–43; Friendly op. cit. supra note 132, at 143–47; Bernstein, Regulating Business by Independent Commission 179–82 (1955). "[I]n general, rule-making is a sounder way of proceeding than the case-by-case method or general declarations of policy and * * * wherever appropriate, it should be employed. * * * [E]very consideration of sound administrative procedure and fair play argues for following the rule-making route, where it can be employed." Baker, supra note 133, at 671. This principle has been stated with particular reference to the Trade Commission:

"The definition of unfair competition by administrative legislation is incomparably superior to definition by administrative decision. The method of judicial exclusion and inclusion does not permit of a sustained, consistent, comprehensive and speedy attack upon the trade practice problem. The case by case determination takes years to cover even a narrow field; it leaves wide lacunae; false starts are difficult to correct and the erroneous decision is just as prolific as a sound ruling in begetting a progeny of subordinate rules. In a controversy between two litigants or between a Commission and a private party, the law making function is distracted by factors which are important to the contestants but irrelevant to the formulation of future policy. The fusion of law and economics, the detailed investigations and hearings, and the precise formulation of rules, all of which are so essential to a proper regulation of competition, are not feasible when lawmaking is but a by-product of the adjustment of controversies. The combination of the two functions may have been justified when knowledge of the workings of competition was sparse and objectives ill-defined. It can no longer be justified today. It would be little short of criminal to rely upon so inefficient a method of law making when more scientific and expeditious devices are available. * * * Hence we should resort to administrative legislation, at least so far as Federal control of practices in interstate commerce is concerned. The administrative tribunal would have several functions. On the legislative or law making side, it would be charged with the duty of maintaining an unremitting study of the trade practice problem. It would, by rules and regulations, under a proper delegation of power and a clear definition of the standards by which it is to be guided, make additions to the general code of unfair competition. These additions would be preceded by investigation and public hearing and proposed drafts would be subject to extended criticism and study before enactment. It would also, upon proper showing, grant exemptions to particular industries from such provisions of the general law as operated harshly. Such exemptions would rarely be necessary but administration should be flexible enough to take care of the need should it arise. It would also, after thorough investigation, hearing and study, draft regulations for the facilitation, preservation, and

however, that the agencies in general, or the Federal Trade Commission in particular, should abandon reliance on the adjudicative method in all situations where a substantive principle or standard of conduct having general application is to be declared. The force of each of the reasons discussed above varies with the concrete situation in which a choice between approaches is presented. That is why the Supreme Court has held that the choice between rulemaking and adjudicative proceedings is ordinarily within the agency's discretion.[41] The immediate question, then, is not whether rulemaking through formal rulemaking proceedings is in general preferable to rulemaking through adjudicative proceedings, but whether, and to what extent, it is preferable in the present situation, which involves determining the requirements of the Trade Commision Act with respect to cigarette advertising and labeling in the light of the health hazards of cigarette smoking.[42] Concretely, what is the balance of advantages and disadvantages in proceeding by the trade regulation rule route in dealing with this particular problem?

To begin with, the problem is a general one. It is a problem of the legal responsibilities of an entire industry, not an individual firm. The cigarette industry would doubtless feel that the Commission was acting inequitably if it picked and chose among the cigarette manufacturers, suing some but not others. The principal considerations that must influence decision in this area—the nature of the health hazard, consumer knowledge of it, the amount and concentration of cigarette advertising in certain media, the problem of youthful smoking—pertain more or less equally to all of the cigarette manufacturers, who are, of course, competitors. The situation plainly calls for uniform, consolidated treatment, not separate lawsuits.

Moreover, the problem raises novel issues of policy. Although, in our opinion, established legal principles support, and indeed compel, the conclusions respecting the legal duties of the cigarette manufacturers reached in this report, the application of these principles in the circumstances presented is a matter of wide interest and concern. It is fairer to the industry as well as to the public that it be approached on a uniform and prospective basis in a proceeding specially tailored to the task of clear and comprehensive definition of the requirements of law to which the industry is subject. The industry, we are confident, supports the Commission's position that little constructive purpose would be served by proceedings in which the lawfulness of past practices in cigarette advertising, and the individual liability of particular manufacturers, were probed. The trade regulation rule promulgated herewith does not attempt to impute blame for past cigarette advertising practices. It is in no sense punitive, but preventive. It states the requirements of law for such practices, and it does so uniformly, clearly. and prospectively.

3. The Commission's authority to conduct a trade regulation rulemaking proceeding. In the preceding section, it was demonstrated that the trade regulation rule procedure offers a more practical approach to the effective fulfillment of the Commission's statutory responsibilities in the area of cigarette advertising and public health than the conventional method of separate lawsuits. It is contended, nevertheless, that the Commission has not been granted by Congress the power to conduct such a proceeding; that it is confined to the cease-and-desist order adjudicative procedure provided in section 5(b) of the Trade Commission Act. The contention has far-reaching significance. If well founded, it would, because of the factors discussed above, preclude the Commission from acting effectively in matters, such as the present one, which, though they are clearly within the Commission's statutory jurisdiction and responsibilities, and of public importance, are not amenable to sound, expeditious, and effective handling under the 5(b) procedure.

The contention is refuted by the language and scheme of the Trade Commission Act. Section 5(a)(6) of the Trade Commission Act provides that "[t]he Commission is hereby empowered and directed to prevent persons, partnerships, or corporations * * * from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce." This, the Commission's basic mandate, is distinct from section 5(b). There is no indication that the latter was intended to limit the broad grant of power in 5(a)(6). Section 5(b) simply establishes one procedure for implementation of the Commission's duty to prevent unfair methods of competition and unfair or deceptive acts or practices. That this procedure is not exclusive or mandatory is shown by the language of 5(b): "Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been using or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint." The Commission is directed to use the 5(b) procedure only where it believes a 5(b) proceeding would be in the public interest. Moreover, use of the procedure presupposes a preliminary determination that the respondent has, or is currently, engaged in unlawful conduct.[43] The 5(b) procedure, in short, is distinctly narrower than the 5(a)(6) mandate, which does not require violations of law to be shown before the Commission may act to prevent them.

Section 6(g) of the Trade Commission Act authorizes the Commission "to make rules and regulations for the purpose of carrying out the provisions of this act," and thus establishes another method by which the Commission can proceed in the discharge of its statutory responsibilities as defined by 5(a)(6). The trade regulation rule procedure is clearly embraced by the literal terms of the section, and nothing in the legislative history of the Trade Commission Act requires that the provision be read other than as written.[44]

Even if 6(g) were not in the act, it could not be persuasively maintained that the trade regulation rule procedure is ultra vires. It is implicit in the basic purpose and design of the Trade Commission Act as a whole, to establish an administrative agency for the prevention of unfair trade practices, that the Commission should not be confined to quasi-judicial proceedings. The Commission was created because the courts had not been able to build up a coherent and progressive body of trade regulation law, and because Congress found it completely impractical itself to define with particularity the trade practices that contravened public policy and ought therefore to be proscribed. The Commission was established not as a simple law-enforcement agency, but as an administrative agency comparable to the Interstate Commerce Commission, in order to perform a positive role of policy formulation which the courts, it seemed, could not adequately ply in the trade regulation area. Since the Commission was given, specifically in section 5(a)(6), the function of defining and particularizing, as well as enforcing, the substantive requirements of the Trade Commission Act, it is a reasonable inference that Congress did not intend to deny to the Commission the use of procedures, such as the

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regulation of competition for specific industries. These regulations would differ from N.R.A. codes in several vital respects. First, they would deal with the prohibition of competitive practices and not with the rehabilitation of industry or the rationalization or elimination of competition. Hence they would not be subject to the charge of regimentation. Secondly, they would be drafted by government and not by industry. Industry would be heard as in the formulation of a piece of legislation but it would not propose or command. Thirdly, the scope of the regulations would be more modest. Only practices which are demonstrably unsocial and uneconomic and which require separate industrial treatment would be thus attacked." Handler, "Unfair Competition," 21 Iowa L. Rev. 175, 259–61 (1936).

[41] *S.E.C.* v. *Chenery Corp.*, supra note 139, at 202. See *Logansport Broadcasting Corp.* v. *United States*, 93 U.S. App. D.C. 342, 210 F. 2d 24 (1954).

[42] Baker, supra note 133, at 671, n. 60, states that his conclusions regarding the preferability of rulemaking proceedings (see note 139, supra) have little applicability "to agencies such as the National Labor Relations Board or Federal Trade Commission, which are largely concerned with adjudicatory evidentiary questions whether some specified unfair practices have been committed." We agree that where such issues are presented—and that may be in the majority of situations within the Commission's jurisdiction—rulemaking proceedings are inappropriate. The question is whether or not this particular proceeding involves a different kind of issue.

[43] Compare Section 15 of the Clayton Act, 15 U.S.C. § 25, which authorizes the Attorney General "to institute proceedings in equity to *prevent* and restrain . . . violations [of the Act]." (Emphasis added.)

[44] It is a familiar canon of statutory construction that where the meaning of a statute is clear and unambiguous on the face of the statute, there is no occasion to look to legislative history. E.g., *Caminetti* v. *United States*, 242 U.S. 470 (1916); 2 Sutherland, Statutory Construction § 4502 (3d ed. 1943).

Nevertheless, the spokesman for the cigarette industry argued in this proceeding that the legislative history of the Federal Trade Commission Act of 1914 makes clear that the Commission was not intended to promulgate "substantive" rules. (R. 83–K to 83–M.) However, by "substantive" rules the spokesman meant, as has been mentioned (see note 131, supra), rules having the force and effect of law—not trade regulation rules. At most, the legislative history suggests that the Commission was not intended to promulgate "legislative" rules. For example, Judge Covington, a member of the Conference Committee, remarked: "The Federal Trade Commission will have no power to prescribe the methods of competition to be used in future. In issuing its orders it will not be exercising power of a legislative nature." 51 Con. Rec. 14932 (1914). There are, to be sure, references in the legislative history to the "quasi-judicial" nature of the Commission (cf. S. Rep. No. 1705, 74th Cong., 2d Sess. 2 (1936)), and statements such as, Section 5 "empowers the Commission to prevent corporations from using unfair methods of competition in commerce by orders issued after hearing" (S. Rep. No. 597, 63d Cong., 2d Sess. 13 (1914)). But such remarks do not seem to have been concerned with limiting the Commission's rulemaking powers, conferred expressly in Section 6(g). Their point, rather, was (1) that the Commission has quasi-judicial powers, and is not limited to the investigatory role originally envisaged for it, and (2) that the Commission can only enter a cease and desist order on the basis of a trial-type hearing in which the procedural safeguards of the judicial process are afforded.

trade regulation rule procedure, which may be necessary to fulfill that function.

That the Commission was not envisioned as a conventional law-enforcement agency, concerned primarily with assessing liability on the basis of past acts, is suggested by the form of proceeding specified in section 5(b). As mentioned earlier 5(b) in its original form empowered the Commission to issue, not a final and binding order in the nature of an injunction, but an advisory type of order. Even in its present form, 5(b) does not in terms provide for a trial-type hearing, but only for a summary proceeding to show cause. The framers of the Trade Commission Act sought to create an agency that would introduce certainty into the law of unfair trade practices and thus provide guidance for American businessmen. For this purpose a full complement of judicial-type procedures and sanctions were deemed unnecessary.

Finally, the detailed structure of the Trade Commission Act refutes the argument that Congress intended to force the Commission within a narrowly adjudicative mood. The act established an administrative agency, not an administrative court. It gave the agency responsibility not merely to adjudicate, but also to initiate proceedings. It endowed the agency with extensive powers of investigation and inquiry (see, e.g., sec. 6(b) of the act). Since Congress plainly wished to depart from, rather than imitate, the judicial method of legal administration, we are not persuaded that, in specifying a procedure for obtaining a cease-and-desist order, Congress thereby precluded preventive procedures other than a formal cease-and-desist order proceeding.

4. The bearing of trade practice rules: The contention that the Commission has no authority to conduct a rulemaking proceeding such as the present one is particularly untenable in view of the Commission's long-established, and concededly valid, trade practice rule procedure. "Trade practice rules are designed to eliminate and prevent, on a voluntary and industrywide basis, trade practices which are violative of laws administered by the Commission. The rules interpret and inform businessmen of legal requirements applicable to the practices of a particular industry and provide the basis for voluntary and simultaneous abandonment of unlawful practices by industry members. Failure to comply with such rules may result in corrective action by the Commission under applicable statutory provisions." [45]

[45] Section 1.62, Procedures and Rules of Practice (effective Aug. 1, 1963). The procedure for promulgating trade practice and trade regulation rules is the same. See Section 1.61. The lawfulness of the trade practice rule procedure appears to be settled. H.R. Rep. No. 3236, "Antitrust Law Enforcement by the Federal Trade Commission and the Antitrust Division, Department of Justice—A Preliminary Report," 81st Cong., 2d Sess. 31 (1951) ("the question of legality would seem to be a dead issue"); Comment, "Trade Rules and Trade Conferences: the FTC and Business Attack Deceptive Practices, Unfair Competition, and Antitrust Violations," 62 Yale L. J. 912, 918, n. 45 (1953) (legality of procedure termed "unquestionable"). "That it is within the competence of the Federal Trade Commission to promulgate these [Trade Practice] Rules in the public interest is not challenged. * * * As these Rules are applicable alike to all members of the industry, petitioner must comply with them." *Prima Products, Inc.* v. *F.T.C.*, 209 F. 2d 405, 408 (2d Cir. 1954). The Tobacco Institute, in this proceeding, appears to concede the lawfulness of the trade practice rule procedure (R. 83–P). As of 1961, trade practice rules were in force in 162 industries. F.T.C. Ann. Rep., 1961, p. 64. For a current list of such rules, see 4 CCH Trade Reg. Rep., pp. 42002–8.

No provision of the Federal Trade Commission Act, unless it be section 6(g), authorizes the Commission in so many words to conduct this kind of rulemaking proceeding, whereby unlawful practices are sought to be prevented on an industrywide basis,[46] yet the Commission has conducted such proceedings, in one form or another, since at least 1920.[47]

Many trade practice rules have long been viewed as actually stating the substantive requirements of the Trade Commission Act, and, accordingly, as being enforceable by the Commission and not merely voluntary. The unfair trade practices which are embraced in group I rules are considered to be unfair methods of competition within the decisions of the Federal Trade Commission and the courts, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.[48] Trade practice rules have been relied upon by the Commission in subsequent adjudicative proceedings to support findings of unlawfulness. The courts have upheld the Commission in so relying.[49] As a practical matter, then, trade practice rules are not merely voluntary and advisory; they are, in many instances, enforceable and enforced. (See Comment, 62 Yale L. J. 912, 935, 941–943 (1953).) As shall appear, the difference between trade practice and trade regulation rules is one of degree, not of kind.

The foregoing discussion also answers the argument that the trade regulation rule procedure is invalid because the Commission first utilized it many years after the passage of the Trade Commission Act in 1914. The Supreme Court has held that the Commission's failure to exercise authority delegated to it in the act until a number of years has elapsed does not justify a conclusion that the authority was never delegated. *United States* v. *Morton Salt Co.*, 338 U.S. 632, 647–648 (1950). But Federal Trade Commission rulemaking is, in any event, no recent phenomenon. The trade regulation rule procedure is not a sudden innovation, but a natural outgrowth of the trade practice rule procedure. It is thus the culmination of more than 40 years of Commission rulemaking.

The existence and unchallenged validity of the trade practice rule procedure also refute the position (which is untenable in any event in light of the clear language of sec. 6(g)) that the trade regulation rule procedure is unauthorized because not specifically referred to in the Trade Commission Act. Even though trade practice rules are obviously outside the framework of the section 5(b) procedure, the Commission's authority to promulgate them is conceded, evidently because they represent a far less drastic exercise of administrative power than cease-and-desist orders. A cease-and-desist order is predicated on a finding that the law has been violated. It adjudicates guilt and innocence; a trade practice—or trade regulation—rule does not. Violation of a cease-and-desist order lays a person or firm open to severe civil penalties or contempt sanctions; there are no penalties or sanctions for violation of a trade practice—or trade regulation—rule. The 5(b) powers of the Commission are, therefore, far more drastic than its rulemaking powers. The explicit vesting of the Commission with those more drastic powers does not compel an inference that the less drastic powers have been withheld.[50]

[46] By the same token, nothing in the language of Section 5(b) specifically authorizes the kind of full-fledged trial-type hearing which the Commission customarily afforded in cease-and-desist proceedings long before the enactment of the Administrative Procedure Act.

[47] In F.T.C. Ann. Rep., 1920, p. 43, there is a description of the "trade practice submittal" procedure, which was the precursor of the trade practice rule procedure:

"This procedure was instituted by the Commission as an instrument to assist the proceedings provided by statute for the elimination of unfair methods of competition. It had its origin in an effort to eliminate, simultaneously and by the consent of those engaged in a given industry, practices which, in the opinion of the industry as a whole, were unfair. The trade submits its trade practices to the Commission for the Commission's information. It is employed in cases where a large number of complaints come to the Commission, usually from persons in the industry, respecting a number of alleged unfair practices generally prevalent in the industry, or respecting some practice which although of ancient and widespread usage in the trade is questioned. In such instances the Commission has at times felt that a single proceeding might not present all the facts or that a single order, restraining as it would but a single concern, might tend to be harmful rather than corrective."

And as early as 1916, the Commission was issuing "conference rulings", i.e., advisory opinions. "The Commission has interpreted, upon request, the laws which it is empowered to enforce." F.T.C. Ann. Rep., 1916, pp. 12–13; see id., pp. 52–59.

[48] F.T.C. Ann. Rep., 1935, pp. 96–97. Thus, the "group I" rules are mandatory, not voluntary or permissive. For a full description of the group I–group II distinction, see T.N.E.C. Monograph No. 34, Control of Unfair Competitive Practices Through Trade Practice Conference Procedure of the Federal Trade Commission, pp. 4–6 (1941).

[49] See *Prima Products, Inc.* v. *F.T.C.*, 209 F. 2d 405 (2d Cir. 1954); *Northern Feather Works, Inc.* v. *F.T.C.*, 234 F. 2d 335 (3d Cir. 1956); *Buchwalter* v. *F.T.C.*, 235 F. 2d 344 (2d Cir. 1956); *Lazar* v. *F.T.C.*, 240 F. 2d 176 (7th Cir. 1957); *Burton-Dixie Corp.* v. *F.T.C.*, 240 F. 2d 166 (7th Cir. 1957).

[50] The question of the Federal Trade Commission's rulemaking authority invites comparison with that of the rulemaking authority of the National Labor Relations Board. Like the Commission, the Labor Board has jurisdiction over certain kinds of practices in many industries, rather than comprehensive regulatory responsibilities in a particular industry. Like the Commission, the Labor Board has been given by Congress the task of implementing broad principles of fairness in an area where specialized knowledge and experience are necessary. Thus the Board's task, like the Commission's, has been inescapably "quasi-legislative" in character, as well as "quasi-judicial." Yet the Board, even more than the Commission, has relied on adjudication for formulating policy, and the bar has urged the Board to utilize its rulemaking powers. (See Peck, supra note 133; Report of the Committee on Agency Rule-Making of the A.B.A. Administrative Law Section, 11 Ad. L. Bull. 280 (1959); Recommendation of the A.B.A. Lab. L. Sec., 42 Lab. Rel. Rep. 513 (1958); Note, Administrative Law Making Through Adjudication: The National Labor Relations Board, 45 Minn. L. Rev. 609, 656 (1961).) The Board has been granted rulemaking authority in much the same language as Section 6(g) of the Trade Commission Act. "The Board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the Administrative Procedure Act, such rules and regulations as may be necessary to carry out the provisions of this subchapter." Section 6 of the National Labor Relations Act, 29 U.S.C. § 156. It has been assumed that the Board has authority to conduct formal rulemaking proceedings.

B. The use or effect of trade regulation rules in subsequent adjudicative proceedings

The questions (1) whether the Commission is authorized to conduct this rulemaking proceeding, and (2) what use the Commission may make of the rule in subsequent adjudicative proceedings, are logically distinct. In promulgating the present rule, the Commission desires to avert, not stimulate, litigation. It assumes that the rule will be obeyed without the necessity for subsequent cease-and-desist order proceedings. Rules that state the requirements of law with clarity and particularity, and are uniform and prospective in application, avoid uncertainties and reduce litigation. It is, therefore, premature to attempt in this report a definitive exposition of the consequences of violation of trade regulation rules. Nevertheless, since some of the witnesses at the public hearings in this matter appear to have had some difficulty in conceiving how rules can be other than "interpretative" or "legislative," and since trade regulations rules fit neither pigeonhole exactly, we shall attempt to describe briefly the intended use and effect of trade regulation rules in adjudicative proceedings brought subsequent to their promulgation.

If the only significance of trade regulation rules were as a vehicle for announcing Commission policy, they would be rather similar to trade practice rules. Both types of rule offer interpretation of the laws administered by the Commission, not in the context of assessing liability for past practices, but by way of furnishing guidance for the future concerning the Commission's views of the requirements of law as applied to a particular problem. If this process is unobjectionable under the rubric of trade practice rules, it should be equally unobjectionable under the rubric of trade regulation rules.

It is true that in trade practice rule proceedings the initiative is ordinarily with the industry rather than the Commission. The object is to devise rules that will be acceptable to the industry members and that the Commission can approve. In trade regulation rule proceedings, the initiative is typically the Commission's, and the rules may be adopted even if the consent of the industry members is not forthcoming. Trade regulation rules are, therefore, a more deliberate and more formal embodiment of Commission views and perhaps a more reliable index to the Commission's enforcement intentions than trade practice rules. But the difference is not fundamental.

In interpreting the laws administered by the Commission, are trade practice and trade regulation rules merely "advisory"? To be sure, one who violates such rules incurs no immediate sanction thereby. But where a rule correctly expresses the requirements of the law, one who disobeys the rule is, for all practical purposes, disobeying the law. Thus, when an agency's consideration of a problem has progressed to the point at which a specific legal standard has crystallized, it is plainly to the advantage of the persons who might be affected thereby that the agency announce its determination in a formal, public, explicit, and prospective manner. Otherwise such persons may violate the law and incur heavy sanctions because of uncertainty as to the law's requirements.

There is a more significant difference between trade practice and trade regulation rules than any we have yet touched upon. An example should make this difference clear. Suppose that there is a trade practice rule for the drycell battery industry which forbids the advertising of drycell batteries as leakproof. No factual determinations would accompany such a rule, since trade practice rules ordinarily rest upon industry agreement. In the event that a battery manufacturer did not comply with the trade practice rule, and the Commission issued a complaint against him under section 5(b) alleging that he had committed a deceptive act or practice in advertising his battery as "leakproof," the Commission would not be able to rely on any determination, made in the trade practice rule proceeding, that no battery is leakproof, because no determination would have been made. In the adjudicative proceeding the Commission could not utilize the trade practice rule to resolve any disputed issue of fact, or to dispense with the introduction of evidence required to make out a prima facie case. The Commission would be obliged to prove de novo that the respondent's battery was not leakproof. However, in the case of a trade regulation rule, accompanied by and based upon determinations of fact made in accordance with statutory rulemaking procedures, the Commission could, in a subsequent adjudicative proceeding, rely not only on the propositions of law contained in the rule, but also on the underlying factual matters determined.

The Commission may rely on factfindings made in a prior rulemaking proceeding only to the extent that the rulemaking proceeding afforded a fair and proper procedure for making the particular factual determinations sought to be relied on, and did not infringe the respondent's right to have a full, trial-type hearing in any section 5(b) proceeding. Not all issues lend themselves to determination in a rulemaking proceeding; some can be determined only in an adjudicative proceeding embodying a complete panoply of evidentiary and procedural rules and safeguards. A rulemaking proceeding would, for example, be inappropriate for resolving factual issues turning on witnesses' credibility, memory, or powers of observation. Adjudicative factfinding is specifically designed for the resolution of such kinds of issues. Where, however, factual matters are essentially uncontroverted, or otherwise do not demand exclusively adversary presentation and adjudicative determination, it may be fair and proper to determine them in a rulemaking proceeding, and then rely on the determination made therein in subsequent adjudicative proceedings in which the matters are relevant.

It was pointed out earlier that a conclusion that a particular course of conduct is unlawful may rest not only upon evidence, i.e., facts developed according to the procedures of adjudication, but also on background or "legislative" facts, or broad considerations of law, policy, and discretion, or the accumulated knowledge and experience of the agency.[51] Nonevidentiary "facts" of this sort are not required to be determined adjudicatively. Often they cannot be so determined. If, therefore, they have been determined in a rulemaking proceeding in which the procedures ordained by the Administrative Procedure Act and the agency's own rules have been fully complied with, it should not be required that they be redetermined de novo in a subsequent adjudicative proceeding.

The factual determinations upon which the trade regulation rule promulgated herewith are based concern (1) the health hazards of cigarette smoking; (2) cigarette sales and advertising expenditures by year, brand, and type of cigarette, cigarette advertising media and audiences, etc.; (3) consumer reactions, attitudes and behavior, and the probable impact of cigarette advertising on consumers. It has already been explained why the Commission may, with propriety, accept the determinations made in the Report of the Surgeon General's Advisory Committee (see part II, supra). The second category is limited to strictly background data which have been drawn from sources whose accuracy is generally conceded and has not been challenged in this proceeding. The right to a trial-type hearing is not infringed by relying on such data.[52]

As for the third category, it was pointed out in part IV of this report that the meaning of particular advertisements, the understanding of consumers, and related questions as to the impact or effects of advertising on the consuming public, while they are deemed to involve matters of "fact" to be determined by the Commission, ordinarily depend, not upon evidence (apart from the advertisements themselves), but upon the Commission's exercise of its specialized knowledge and experience of marketing practices and consumer reactions. The Commission is, of course, making no judgment in this proceeding with respect to any deceptive or unfair characteristics of particular cigarette advertisements or of cigarette advertising. There is no "adjudicative" question here, for example, of whether a particular advertisement is likely to deceive a substantial segment of the consuming public or whether any cigarette advertiser has committed unfair or deceptive acts or practices. However, the Commission has considered and based the rule on such general background matters as the probable impact on consumers of cigarette advertising that does not disclose the health hazards of smoking, in view of the amount of advertising, media employed, the general advertising themes that have been used, the nature of the advertised product, the characteristics of the advertising audience, the publicity that has been accorded the smoking and health controversy, and so forth.

It should be noted in this connection that the facts upon which the trade regulation rule is based are common to the entire class of persons subject to the rule, i.e., all of the members of the cigarette industry. Such facts are obviously suitable for consolidated treatment in a single proceeding, not only on grounds of economy and expedition, but on grounds of fairness as well. It is to the advantage of the cigarette manufacturers that such facts be treated together. Were the Commission to bring separate cease-and-desist order proceedings against the individual manufacturers, it would, to be sure, be necessary to establish the essential elements of the Commission's case separately in each proceeding. However, after a series of such proceedings, it would be entirely proper for the Commission, in the next case, to take official notice of the records of and its findings in the prior cases, thereby dispensing with the need to establish a prima facie case anew,[53] even though the respondent in the

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[51] See 2 Davis, Administrative Law, ch. 15 (1958). "Legislative facts are typically general facts which help the tribunal decide issues of law and policy. Adjudicative facts are facts about the parties, the facts to which law and policy are applied in an adjudication." 2 id., sec. 15.14, p. 433.

[52] In the words of Mr. Justice Holmes, "The court may ascertain as it sees fit any fact that is merely a ground for laying down a rule of law." *Chastleton Corp.* v. *Sinclair*, 264, U.S. 543, 548 (1924). See Wyzanski, "A Trial Judge's Freedom and Responsibility," 65 Harv. L. Rev. 1281, 1295 (1952). Surely it is appropriate that such facts be determined systematically in a rulemaking proceeding tailored to that purpose, rather than be left to find their way, perhaps somewhat haphazardly, into adjudicative decisions in which new rules of law are announced.

[53] See section 7(d) of the Administrative Procedure Act. The doctrine of official notice was discussed by the Commission in its recent decision in *Manco Watch Strap Co.*, FTC Docket 7785 (decided March 13, 1962), a case involving nondisclosure of foreign origin:

"If this were the first foreign-origin product case to come before the Commission, the

later case had not been a party to the earlier proceedings. By conducting a single, consolidated proceeding, the Commission has assured all of the cigarette manufacturers an opportunity actually to participate in making such determinations as the Commission may, in future adjudicative proceedings, rely upon.

The Commission may, in subsequent adjudicative proceedings, take official notice of its accumulated knowledge and experience as embodied in the record of a trade regulation rule proceeding, just as it may take official notice of such knowledge and experience as embodied in a series of prior adjudicative records and just as it may rely upon matters outside of any record if they are within the class of matters traditionally regarded as background or legislative facts or matters of law, policy and discretion. This proceeding simply enables the systematic marshaling of the Commission's knowledge and experience in the field of cigarette advertising and of consumer protection generally.

What rights would a respondent in such a later adjudicative proceeding have to notice of and opportunity to rebut findings made in reliance on prior determinations in a trade regulation rule proceeding? Section 7(d) of the Administrative Procedure Act provides, "Where any agency decision rests on official notice of a material fact not appearing in the evidence in the record, any party shall on timely request be afforded an opportunity to show the contrary." (See also sec. 3.14(d) of the Commission's Procedures and Rules of Practice.) This does not mean that whenever an agency relies on matters outside of the record to determine an issue in an adjudicative proceeding, the respondent must be given an opportunity to introduce evidence on rebuttal.[54] That makes little sense where it is nonevidentiary facts that have been noticed.

Nor does the Administrative Procedure Act require that the Commission provide, in a subsequent rulemaking proceeding or otherwise, a further opportunity for persons who were afforded a full and ample opportunity to participate in the original rulemaking proceeding—who were, as here, on notice of the matters of fact, law, policy and discretion on which the agency relied in formulating its rule, and had complete opportunity to submit in written and oral form any views, data and argument they chose[55]—to introduce further data, at least in the form of record evidence, on matters fully and fairly canvassed in the original proceeding, so long as the matters are of the kind that may with propriety and fairness be determined in a nonadjudicative proceeding. While in other cases of official notice (e.g., notice of the record of a prior case) the respondent's first "opportunity to show the contrary" occurs in the adjudicative proceeding in which notice is taken (the respondent not having been a party in the prior case), here the cigarette companies have been given such an opportunity in the very proceeding the record of which may be noticed in a future adjudicative proceeding. The Administrative Procedure Act does not require that the same person or firm be offered an indefinite number of "opportunities to show the contrary."

What the Administrative Procedure Act and basic principles of fair procedure do require, in the way of "an opportunity to show the contrary," is that any person or firm subject to a trade regulation rule be given an opportunity to show changed conditions, or other special circumstances, justifying a waiver of the rule as to him.[56] Such opportunity is expressly provided for in the present trade regulation rule.[57] Moreover, such person is free, in any adjudicative proceeding in which the Commission gives notice of its intention to rely on the determinations made in this proceeding, to introduce evidence bearing on adjudicative facts at issue in the later proceeding, as well as to argue questions of law. The trade regulation rule procedure thus involves no infringement whatever of any respondent's rights in a subsequent 5(b) adjudicative proceeding. Cf. *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192 (1956); *F.P.C.* v. *Texaco Inc.*, ——— U.S. ——— (1964).

In sum, while nowhere in the Trade Commission Act is the Commission specifically granted the authority to promulgate a trade regulation rule for the advertising and labeling of cigarettes, such a rule is within the scope of the general grant of rulemaking authority in section 6(g), and authority to promulgate it is, in any event, implicit in section 5(a)(6) and in the purpose and design of the Trade Commission Act as a whole. Within the limits stated above, the rule may be relied upon in subsequent adjudicative proceedings to resolve those factual matters that have been determined in the rulemaking proceeding. The lawfulness of such an exercise of agency authority, in analogous circumstances, has been upheld by the Supreme Court.[58]

VII. THE PROVISIONS OF THE TRADE REGULATION RULE AND MANNER OF COMPLIANCE THEREWITH

In this part of the report we discuss briefly the provisions of the trade regulation rule promulgated herewith and the requirements of compliance with it. For reasons already stated, the rule contains no provisions corresponding to rules 2 and 3 of the proposed rules published at the outset of this proceeding. The substance of proposed rule 1 remains, but it has been modified to eliminate any requirement that a specific form or specific forms of words be used in disclosing in all advertising and labeling the health hazards of cigarette smoking. The Commission believes that the individual advertiser should be free to formulate the required disclosure in any manner that intelligibly conveys the sense of the required disclosure in a fully conspicuous fashion. The Commission will, on request, advise whether proposed forms of disclosure comply with the requirements of the rule.

In addition to the substantive provision requiring disclosure of the health hazards of smoking, the rule contains a procedural provision for the reopening of this rulemaking proceeding in certain circumstances. This provision insures that every cigarette manufacturer, in advance of any proceeding against him under section 5(b), shall have a full and fair opportunity to demonstrate to the Commission such changed conditions or special circumstances as would warrant a modification of the rule. Besides this special provision, section 1.66 of the Commission's Procedures and Rules of Practice provides that "any interested person or group" may file a petition with the Secretary of the Commission "for the amendment or repeal of a [trade regulation] rule." This section also permits the Commission to initiate sua sponte proceedings for the modification or repeal of a trade regulation rule.

The Commission's determination in this proceeding, embodied in the trade regulation rule, is in essence a definition of standards of conduct required by the Federal Trade Commission Act, and thus serves the function of informing the members of the cigarette industry of what the law prohibits them from doing in the area of cigarette advertising and labeling in relation to the health hazards of smoking. In promulgating such a rule, the Commission fulfills its statutory obligation, under section 5(a)(6)

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conclusion that a substantial segment of the public assumes that unmarked watch bands are American-made and prefers such domestically-made bands would have to be based on specific evidence. But this is not a case of first impression; rather, it follows scores, if not hundreds, of others involving fundamentally the same general factual issues. This is an area of administration that has evolved to a point at which the accumulated experience and knowledge of the Commission may properly be invoked in exercising its fact-finding function. * * * In view of the frequency and consistency with which proof of the existence of such preference has been shown in countless prior proceedings. the Commission may take official notice of that fact, and dispense with the need to re-prove it in each new proceeding that is brought.

"Proof of general consumer attitudes and preferences in regard to the general class of products of foreign origin or manufacture would only prove again that which the Commission has already established to be the fact from its accumulated knowledge and experience. * * * Accordingly, we may now properly generalize the facts established by the Commission in the long line of foreign-origin cases and relieve the parties in this type of case of the unnecessary burden of continuing to litigate, over and over again, the same general factual issues as to consumer attitudes and preferences." (Pp. 9–11; see 2 Davis, op. cit. supra note 150, ch. 15.)

[54] Jaffe, "Administrative Procedure Re-Examined: The Benjamin Report," 56 Harv. L. Rev. 704, 717–19 (1943); 2 Davis, op. cit. supra note 150, § 15.14, pp. 432–33. "[P]arties should have opportunity to meet in the appropriate fashion all facts that influence the disposition of the case." Id., p. 432. (Emphasis added.)

[55] This trade regulation rule proceeding complies fully with the notice and opportunity-to-participate requirements of section 4 of the Administrative Procedure Act and Section 1.67 of the Commission's Procedures and Rules of Practice. See App. C, infra.

[56] See *National Broadcasting Co.* v. *United States*, 319 U.S. 190, 225 (1943); *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192, 205 (1956); *F.P.C.* v. *Texaco Inc.*, ——U.S. ——, ——(1964). Cf. *Manco Watch Strap Co.*, F.T.C. Docket 7785 (decided March 13, 1962), p. 14: "where the Commission's complaint is predicated on the existence of a general consumer preference for American-made goods of which official notice is taken, the burden of showing that the particular case is exceptional and not within the general rule will rest on the respondent."

[57] The rule provides: "In the event that any person subject to this Rule is of the opinion that new or changed conditions of fact or law, the public interest, or special circumstances require that the Rule be suspended, modified, waived, or repealed as to him, or otherwise altered or amended, such person may file with the Secretary of the Commission a petition to reopen this rulemaking proceeding, stating the changes desired and the grounds therefor. The Commission will act on the petition as provided in Section 1.66 of the Commission's Procedures and Rules of Practice."

[58] See *National Broadcasting Co.* v. *United States*, 319 U.S. 190 (1943); *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192 (1956); *F.P.C.* v. *Texaco Inc.* — U.S. — (1964). Thus, in the recent Texaco case the Supreme Court held: "the statutory requirement for a hearing * * * does not preclude the Commission from particularizing statutory standards through the rulemaking process and barring at the threshold those who neither measure up to them nor show reasons why in the public interest the rule should be waived."— U.S., at —.

of the Federal Trade Commission Act, "to prevent" persons subject to the law "from using unfair methods of competition in commerce and unfair or deceptive acts as practices in commerce"; for Congress envisaged that once businessmen were informed, clearly, unequivocally, and in advance, of what practices were deemed unlawful by the Commission, they would abandon them. It is the Commission's general policy, therefore—a policy no less applicable in the present matter than in other matters—to encourage voluntary, simultaneous, and industry-wide abandonment of unlawful trade practices in order to avoid resort to formal enforcement proceedings and sanctions.

Because the Commission desires to encourage voluntary compliance with this trade regulation rule and recognizes that immediate conformity to the requirements of the rule may present practical difficulties for the industry, it has determined that, following the promulgation of the rule, the industry should be allowed a reasonable period of time for voluntary compliance. For example, questions may arise as to the interpretation and application of the rule in particular circumstances. The Commission's offices will be open for any industry member who has such a question to seek definitive advice, in advance, from the Commission. The Commission also recognizes that even though the rule imposes the minimum requirements necessary to bring the industry's conduct into conformity with section 5 of the Trade Commission Act, it will necessitate changes in the present advertising and labeling of cigarettes that may require some time to implement.

Accordingly, the Commission has determined that, with respect to labeling, the trade regulation rule shall take effect on January 1, 1965. This will allow industry members ample time to bring their labeling into conformity with the rule. However, with respect to advertising, the Commission recognizes that additional problems may exist. The determinations made by the Commission in this proceeding and embodied in this report reflect past and present conditions, not the future. Neither the advertising nor the labeling of any cigarettes has ever carried a warning of the hazards to health of smoking. Nor has there been in this country any extensive educational programs to inform the public, and especially young people, of those dangers. On the contrary, as we have found, cigarette advertising has been of such character and magnitude as to have the effect of obscuring awareness of the risks to health. Thus, if present conditions of cigarette merchandising continue unchanged, the public interest clearly requires the inclusion in all cigarette advertising of disclosure of the hazards to health of smoking. As has been shown (part III supra), advertising has played a most important part in the marketing of cigarettes. In comparison to advertising, labeling has not been a major factor in merchandising the product. It is the Commission's determination, therefore, that, in the light of circumstances as they exist today, the members of the cigarette industry are under the legal duty to disclose the health hazards of cigarette smoking in advertising as well as labeling.

The Commission recognizes, however, that circumstances may change, and that such change may affect the public interest with respect to the need for such disclosure in cigarette advertising. The Commission expects that members of the industry will proceed promptly and in good faith to comply with the rule, insofar as it requires inclusion of a cautionary statement in all cigarette labeling. The Commission also expects that the members of the industry will proceed promptly and in good faith to eliminate voluntarily all deceptive or unfair elements from cigarette advertising. The Commission also anticipates that effective and sustained campaigns of public education as to the health hazards of cigarette smoking may soon be undertaken on a large scale by public health agencies, medical and health organizations, and indeed by the cigarette industry itself.

Accordingly, the Commission has determined that, with respect to advertising, the rule shall become effective on July 1, 1965. In view of the possibility of changed circumstances prior to such effective date, the Commission is making express provision in the rule for dealing with such changed circumstances should they occur. The Commission will entertain an application filed prior to May 1, 1965, by any interested party to postpone the effective date or otherwise suspend, modify, or abrogate the provisions of the rule as to advertising, upon a showing of such change in circumstances as to justify such requested action in the public interest. The Commission would welcome voluntary compliance by the industry or other changed circumstances which would obviate the need for formal enforcement proceedings or sanctions.

The Commission's objective in this proceeding has been to inform and guide, not to pass judgment upon past or present actions of the cigarette industry. Trade regulation rules are preventive, not punitive, in nature, They are intended to avert rather than promote litigation. The Commission desires neither to inflict economic injury on the cigarette industry nor to involve the members of the industry in cease-and-desist order proceedings. The Commission has therefore endeavored to prescribe a program of compliance that will involve a minimum of uncertainty, dislocation, and formal enforcement, and at the same time fully protect the public interest.

INVESTIGATION OF PARTISAN POLITICAL FUNDRAISING IN THE CIVIL SERVICE

The PRESIDING OFFICER. The Chair lays before the Senate a resolution coming over from a previous day, which will be stated by title.

The LEGISLATIVE CLERK. A resolution (S. Res. 332) requesting the Attorney General to investigate partisan political fundraising in the civil service.

Mr. WILLIAMS of Delaware. Mr. President, I have modified the resolution. I ask the clerk to read the resolution as it has been modified.

The legislative clerk read the resolution (S. Res. 332), as modified, as follows:

Resolved, That the Attorney General is requested to investigate the alleged solicitation of career employees by either political party to purchase tickets to political fundraising dinners for the purpose of ascertaining whether such solicitation by either political party has involved a violation of existing laws, and (1) if it appears that any such violation has occurred, to take appropriate steps to punish those responsible therefor, or (2) if it appears that the alleged solicitation was not in violation of existing laws, to formulate and recommend to the Congress, within sixty days, the enactment of such additional laws, or amendments to existing laws, as may be necessary to prohibit further solicitations of this nature.

Mr. WILLIAMS of Delaware. Mr. President, it was called to our attention recently that solicitations were being made by the Democratic National Committee from career employees, requesting $100 contributions to fund raising dinners. Later we were advised that this procedure may involve both parties.

It was my understanding, and the understanding of many other persons, that such solicitations would be in violation of existing law, whether they were made by one political party or the other. That was the basis for the resolution. And if it is not in violation of the law, I think it should be.

The resolution calls on the Attorney General to investigate these charges and to recommend to Congress whatever amendments may be necessary to the existing law. If laws have been violated then he is requested to take appropriate steps to prosecute those responsible.

In the interest of protecting the Civil Service System and those working under it, I hope the resolution will be adopted.

As these solicitations come from national committees, and those high in the political parties, employees feel that they have no choice other than to contribute, because they may fear adverse results in promotion or that the job itself may be jeopardized. Oftimes these employees cannot afford these contributions. They need their money for their families.

The resolution has been changed to make it applicable to any violation which may be discovered in either of the two political parties.

I urge the adoption of the resolution.

Let us protect these civil service workers from these highly improper, if not actually, illegal solicitations.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as modified.

The resolution, as modified, was agreed to.

The preamble was amended, so as to read:

Whereas is has been reported in the public press that career employees of the Federal Government have been solicited to purchase tickets to a political fundraising dinner; and

Whereas the Congress, from time to time, has enacted laws designed to prohibit partisan political activities, by career employees of the Government, and to protect such employees from partisan political pressures: Now, therefore, be it

HENRY A. BURKHAMMER SCHOLARSHIPS AWARDS PROGRAM

Mr. HUMPHREY. Mr. President, again this year it gives me great pleasure to bring to the attention of my colleagues the two winning essays from an annual competition sponsored by Local 1663 of the United Steelworkers of America. Local 1663, situated in Hibbing, Minn., conducts a contest each year soliciting entries on the subject "The Contribution of Labor Unions to the Betterment of Our American Way of Life."

This year's winners, Miss Sharon Sampson, a graduate of Hibbing High School, and Mr. James Toscano, Jr., a graduate of Chisholm High School, have each been awarded a $300 scholarship to continue their studies at Hibbing Junior College.

I am frankly impressed with the appreciation which these young people have developed for the contributions which the labor movement has made to our society. I am also impressed with the manner in which they express themselves. In nurturing this competition, with emphasis on both excellence of style and solidity of content, local 1663 is performing yet another valuable public service for the community. I might mention in passing that this year's scholarships bring to a total of $4,200 the educational awards donated by the local in the name of Henry A. Burkhammer.

Mr. President, at this point I wish to commend both the local for its fine program and the winners for their excellent papers. I ask unanimous consent that these two essays be included in the RECORD at this point.

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

THE CONTRIBUTION OF LABOR UNIONS TO THE BETTERMENT OF OUR AMERICAN WAY OF LIFE

(By Sharon Sampson, Hibbing High School, Kelly Lake, Minn.)

There is a great deal of talk these days about the "power" of labor, their increase and development of financial resources, and their political potential. The public is led to believe that the trade unions have become too powerful.

Too powerful for whom or what?

Are they talking in terms of exploiting the many for the betterment and enrichment of a few? The truth is just the other way around.

Those who have enjoyed monopolistic power over the Nation's industrial life naturally fear and resent having to deal with labor on a basis of equality. And, by the same token, the politicians who serve business interests look with alarm at the political education programs conducted by the trade union movement. They are not happy about the political enlightenment of the voters. They know their control is jeopardized when the citizens of our country go to the polls in recordbreaking numbers on election day.

Obviously, concentration of power in the hands of a few can be dangerous to the general welfare. But when unions become more powerful, it means that the people of this country become more powerful. It is merely a practical application of the basic principle of democracy.

The record shows that from its very inception the trade union movement has consistently used whatever power it had to raise the American standard of living, to promote the interests of the American people, and to enhance the power and prestige of the Nation.

Yes, the record is clear. It proves that the trade union movement has always been in the forefront of all action—whether in the shop, in the community, or at national and international levels—to obtain a better break for the overage citizen. It has been an agency not only for democracy, but for democratization.

Now, as in the past, labor must continue to fight for its very existence as a free association of free men and women. We still have to fight for the right to conduct our own business in our own way, for the right to make our maximum contribution as free citizens to our free society.

In America, we have a system of government which, while not perfect, has proved itself to be of greater benefit to its citizens than anything else yet devised by the mind of man. At a time when that system faces its greatest challenge, when its very existence is threatened by totalitarian aggression, you would think that the mutual interests of free labor and free management would draw them together. Yet we find American business mounting a furious attack upon the trade union movement which has proved a bulwark of defense to the free enterprise system.

Our road is clear. Our record is something to be proud of. We know what our objective is. Ours is the very simple objective of securing for the worker a bigger and even better share of the wealth of the Nation which they helped to create.

THE CONTRIBUTION OF LABOR UNIONS TO THE BETTERMENT OF OUR AMERICAN WAY OF LIFE

(By James Toscano, Chisholm Senior High School, Chisholm, Minn.)

The contributions of labor unions to the betterment of our American way of life are so varied and so numerous that even union members sometimes accept them without being consciously aware of the impact their organizations make on America's progress. Union leaders and committees become so absorbed in the urgency of their problems that they don't pause to reflect on the enormity of their efforts, when multiplied by those of all the labor unions of the Nation.

The unions study America's problems, and openly support and endorse those candidates and policies which bear up successfully under their expert analysis. They remind voters of their duties as citizens, and they are among the first to do their duties. They make financial contributions toward the many fund drives sponsored nationally and locally. Although the list of solicitors grows ever longer, they continue to contribute generously. They recognize the importance of helping researchers check every type of health hazard, and the gigantic strides made possible when each group does its share.

Scholarships are awarded annually to assist America's youth in attaining a high level of education, not for the betterment of the union, but for the American way of life.

Opportunities for full employment are developed, along with orderly and peaceful relations between employer and employee. The highest level of employee performance is expected, and sustained, as long as it is consistent with safety, and good health. Every attempt is made to keep a firm rein on inflation, while providing salaries sufficient to buy the products being produced. What organization spends more time and money, travels more miles by plane, auto, and railway—to bring together the people who can effectively resolve their differences, and then unitedly work towards a goal—maintaining a healthy economy for America. Our way of life is a free country's heritage, but it is not achieved without effort, sacrifice, and criticism.

The multitudes now enjoying job security, seniority rights, medical care, shorter working hours, increased wages, longer vacations with pay, and other benefits too numerous to mention, have come to accept these improvements as casually as a family accepts a wage earner's support. Because they know that highly qualified arbitrators are anticipating their needs, they have no desire to contemplate the chaos that would result if the union suddenly crumbled. It is lamentable that well-fed, well-clothed, and well-entertained people tend to become too apathetic and contented to be active and enthusiastic in their own behalf.

The rapid changes taking place in industry are creating a new crop of seemingly unsurmountable complications. The union leaders of today are determined to seek solutions, with the same relentless determination of those pioneer leaders, whose far-sighted comprehension of the probable future, pointed out to them which direction to pursue, for the most success with the least difficulty.

If every leader had the enthusiastic followers he deserves, the contributions of labor unions to the American way of life could be accelerated, increased, and successfully maintained.

ADDRESS BY LOUIS HARRIS ON POLITICAL POLLING IN THE PRIMARIES

Mr. HUMPHREY. Mr. President, there has been much discussion on the accuracy of the predictions rendered by our leading political pollsters in recent presidential primaries.

Since this is a matter of great interest to every Member of the Senate, I bring to the attention of my colleagues the interesting and challenging remarks of Louis Harris delivered to the Sales Executive Club of New York City on June 17, 1964.

Mr. Harris, one of the country's leading political pollsters, discusses his work in connection with the New Hampshire, Indiana, Maryland, Oregon, and California primaries. I commend these remarks and the related statistical data to all persons interested in the fascinating activity of political polling.

Mr. President, I ask unanimous consent that the remarks of Louis Harris and the related statistical tables be printed at this point in the RECORD.

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

REMARKS OF LOUIS HARRIS BEFORE SALES EXECUTIVE CLUB, NEW YORK, N.Y., JUNE 17, 1964

Let me make clear at the outset that I am not before you today to discuss the problem of electronic journalism. CBS will have more to say about the 7:22 p.m. call declaring GOLDWATER the winner in California. I will only note this: I never felt surer about a call and the facts have borne this out. Might I add: It is an unusual experience to be taken to task for being so right. GOLDWATER, after all, did win in California. And he won within the range we reported he won by.

But I come before you to talk about voter attitudes, popularly known as polls. As you well know, the criticism of polls this spring is that they were wrong. My polls were supposed to be too wrong, but my computer extrapolations were supposed to be too right. As BARRY GOLDWATER would say, "Clearly I have a no win position." That means catching it both ways.

Why? Because of the misconceptions and myths that have persisted about public opinion surveys.

1. It seems a poll is right if you say one man is ahead and he happens to turn out the winner. Incredible as it may seem, I've even had it suggested to me that I should have quit polling May 10 when we showed GOLDWATER with a 55 to 45 percent lead. For according to Farley's law, no voters ever change their minds in the course of an election.

2. Another myth is that a poll somehow is a single wet finger held in the wind at a simple point in time. It is ridiculous to poll the same electorate twice in the same election because the second poll might show a change in results. And that would mean the poll must be unstable, because voters never change.

3. Then still another misconception is that sampling, especially in primaries, is impossible of accuracy. How in the world

can 42 precincts in New Hampshire or Indiana or Oregon or Maryland or California possibly represent whole Republican or Democratic electorates in those States?

4. Another frequent myth is that people won't really tell a polltaker their opinions. People hate to express how they really feel, for it is an invasion of privacy. What is more, just in case you feel like telling a polltaker all, for heaven's sake, lie to him so we can be done with this nonsense once and for all.

5. Finally, the standards of the critics of polls. The poll to judge a polltaker on is the last one that can be located in print. If you can't find the Tuesday afternoon poll, the one of Tuesday morning is just as good, or maybe Monday morning's, or, if you live on a rural route out in the country and the mails are late, why then just use last week's poll.

All of these doubts are combined with a deep-seated shibboleth that machines are going to replace human beings (as Newsweek pointed out, the ghosts of the Luddites are still very much with us).

Let's see if we can sift fact from fancy, sense from nonsense right here and now.

1. As to the accuracy of our polling in California. I'd like you to open the first envelope marked "No. 1." The first sheet contains the results of six consecutive surveys of a cross section of California Republicans:

Trend of California primary (with undecided vote out)

[Percent]

Date polled:	
May 10:	
Rockefeller	45.0
Goldwater	55.0
May 18:	
Rockefeller	57.0
Goldwater	43.0
May 23:	
Rockefeller	55.0
Goldwater	45.0
May 28:	
Rockefeller	55.0
Goldwater	45.0
May 31:	
Rockefeller	51.0
Goldwater	49.0
June 1:	
Rockefeller	50.0
Goldwater	50.0
Actual result:	
Rockefeller	48.5
Goldwater	51.5

In case you missed seeing our last polls showing GOLDWATER coming on and Rockefeller fading, the second page shows the headline in the San Francisco Call Bulletin the day of the primary, while below that you'll see the New York Times report of our final poll:

"[From the San Francisco Call Bulletin, June 2, 1964]

"HARRIS SURVEY: LATE GAIN FOR GOLDWATER"

"[From the New York Times, June 3, 1964]

"At least one polling organization, Louis Harris and Associates, had continued its work since its last announced findings, which had given Mr. Rockefeller a 2-point lead."

"From a sampling completed last midnight, Mr. Harris disclosed today that the candidates each had 44 percent of the vote, with 12 percent of the voters undecided."

For all to see, our poll caught the Goldwater surge and had him tapped as he passed the finish line ahead.

What caused some confusion was a false report in a leading New York newspaper that we had tripped in California in our polling, and the weird events of late Tuesday night and early Wednesday morning in the vote counting.

The third sheet in the envelope contains the headlines of a morning San Francisco newspaper. It is a relic worth saving along with the morning after edition of the Chicago Tribune of 1948 which declared Dewey the winner:

"[From the San Francisco Examiner, June 3, 1964]

"TV'S PRATFALL—FAST COUNT—ROCKY SWEEPS INTO THE LEAD"

The problem arose when the wire services started to count the votes 4 hours after CBS had declared GOLDWATER the winner. AP and UPI used snap tallies from Los Angeles County. These are a tradition there, under which the first 25 votes from each precinct are counted quickly and reported quickly. The final vote is reported much later. So the wire services went through the night with three-quarters of the vote from Los Angeles missing. This happened to be fully 27 percent of the vote and also happened to be the place where BARRY GOLDWATER won the election.

Finally, the wire services caught up with the rest of the human race and almost precisely 12 hours after CBS declared GOLDWATER the winner, AP and UPI recognized the same fact. The networks had reporters in each of the roughly 12,000 precincts in Los Angeles who reported the full vote 10 to 12 hours earlier.

But to a number of newspapers who yearned for the good old days, California was a cliffhanger, where the lead veered back and forth, where GOLDWATER won in a late surge from Los Angeles. This was just plain nonsense.

Modern and efficient vote reporting methods stated GOLDWATER's election early and accurately, much as our polls had correctly pointed out what was happening during the last few days as well.

What a travesty of journalism it would have been had there been no network reporting and all of America had awakened Wednesday morning to read headlines that Rockefeller had all but won, only to return from work that night fooled by the final result of a GOLDWATER victory.

I think part of the reason for the shock waves following California was the difficulty of a majority of Republicans—and, indeed, a majority of the people, including editors and reporters and columnists—to come to recognize that BARRY GOLDWATER was now an odds-on favorite to win the Republican nomination. A loud chorus can still be heard chanting the refrain, "Say it ain't so, Joe."

2. This leads to what really was the central phenomenon of these 1964 presidential primaries. We were in five of them altogether, more than any survey organization had attempted before in primaries: New Hampshire, Indiana, Oregon, Maryland, and California. In the three GOP primaries, these were the outstanding facts:

The two declared candidates seemed in New Hampshire to lose rather than gain votes the more they campaigned. Between them, Rockefeller and GOLDWATER could not muster the support of a majority of Republicans. GOLDWATER worried voters with his statements on sending the Marines into Cuba, social security, TVA, use of nuclear weapons, and the United Nations. Rockefeller had sagged with his divorce and remarriage. It was his own private battle he waged essentially with himself the long spring season. Four in ten voters consistently were concerned about Rockefeller's marital troubles and almost an identical number were concerned about extreme rightwing support for GOLDWATER.

In New Hampshire, the voters found at least a temporary way out in Henry Cabot Lodge. They mastered the art of the write-in there and he emerged the victor. Incidentally, that was one election where we had the dynamics spotted correctly, called it right, and received many accolades for it. It was also one in which Lodge came on rapidly at the end. No Farley's law there, however.

Interspersed between the GOP primaries were two Democratic primaries of significance, in Indiana and in Maryland. In Indiana, Gov. George Wallace, of Alabama, amassed nearly 30 percent of the vote. He did it by combining these elements in this order: (1) The luck of running against an unpopular Governor who was a standin for President Johnson; (2) a rising white backlash among steelworker union members in Gary and Lake County, especially among those with an Eastern European ethnic background; and (3) in Indiana, Republicans could vote in the Democratic primary. There a Republican crossover of 1 in 7 voters took place and the higher the crossover, the higher the vote for Governor Wallace.

In Maryland, a border State, which recently had desegregated public accommodations, the Wallace vote soared to 43 percent against the Johnson standin, Senator DANIEL BREWSTER. Wallace drew his strength from the traditionally southern Eastern Shore, from suburban Baltimore City, and from urban steelworkers of Eastern European ethnic background. Here it was an out-and-out protest against moving too fast on civil rights.

For the record, our polling in both Indiana and Maryland called the winners and certainly understood the dynamics of these volatile elections. But we goofed in Indiana. We caught the Republican crossover in our first polls, missed it at the last. In Maryland, we caught it dead right, recording a full 8-point gain for Wallace in the last week. No Farley's law there, either—vote switching down to the wire at a massive rate.

The Oregon primary was the real boot of our season. Lodge began far ahead of the field after New Hampshire. But, as our polls reported, disenchantment over Vietnam was rising and Lodge was pinned with the responsibility there, the number who thought he should come home to campaign in person rose sharply from 18 to 36 percent, and the number who believed he'd been a lazy campaigner in 1960 tripled. Rockefeller gained all through the last week there, partly because he seemed to care and no other candidate was on the scene, and partly because another event took place in the final days. For the first time, Newsweek and other magazines exposed the fact that if GOLDWATER won the California primary, he would have an almost solid lock on the nomination.

This fear of GOLDWATER gave Rockefeller the shot in the arm he needed in Oregon. A revolt mounted in the final days among professional and executive voters in Portland and the suburbs who reasoned this way: If GOLDWATER is to be stopped, only Rockefeller would be around to do it, for only Rockefeller was entered in the California primary. Proof of the last minute shift in Oregon can be seen in the absentee vote cast in Portland from 4 days to 3 weeks before the voting. Those results: Lodge, 36 percent; Rockefeller, 19 percent. Clearly, Rockefeller gained 14 points in the final week, while Lodge lost 9 points. Again, no Farley's law here, either. Our poll had the right direction and the wrong magnitude. It was the one real mistake we made in the long spring primary season. We knew the reason an hour after the results came in that election night: we stopped comprehensive polling the last 2 days.

The next election was the climactic contest in California. We were determined not to miss this one. As you have already seen, Rockefeller soared into an early lead, slipped a little in the ensuing 10 days, and then collapsed the last weekend. Had we stopped polling where we had in Oregon, we would have had the same result as the Field California poll, which had Rockefeller in front 55 to 45 percent.

But we thought we had learned our lesson in Oregon. We went out with consecutive

surveys on Sunday and again on Monday. We finished our last survey Monday at midnight. We caught the Goldwater gains and the Rockefeller losses. We had that election taped to the end. As reported on CBS election day, the momentum had to favor GOLDWATER nipping Rockefeller.

What happened was this: After Oregon, the movement to stop GOLDWATER had caught fire in California. The vote was almost wholly for or against the Arizona Senator. Rockefeller was the recipient of a majority who did not want GOLDWATER. GOLDWATER went on the defensive, played right into Rockefeller's hands. The Senator's speeches protested too much: he would begin by saying, "But I'm not in favor of starting a war," or "I'm not really for scuttling social security."

Then, beginning seven days before the primary, the election changed. Rockefeller's forces began to interpret his lead as a mandate positively in favor of the ultimate nomination of the New York Governor. On the eve of the voting, newspaper stories appeared showing that if GOLDWATER lost California, he would be down to 400 of the 655 needed delegates and that Rockefeller would soar up to 400 votes. Suddenly, Rockefeller became a serious candidate in his own right. Suddenly, the race became a two man popularity contest, instead of acceptance or rejection of GOLDWATER on the issues. Our polls had consistently shown GOLDWATER ahead on a straight personality basis 58-42 percent, but Rockefeller ahead on the issues by 56–44 percent.

GOLDWATER went off the defensive. He emphasized his tranquil family life precisely at the time that Governor Rockefeller's divorce and remarriage was propelled forward by the birth of a new baby. GOLDWATER fought furiously as an underdog. Rockefeller seemed to relax as a front runner. The number worried about GOLDWATER's right-wing extremism went down from 48 to 33 percent in 2 days.

The heat went off GOLDWATER, Rockefeller went front and center, and now voters had four choices instead of the previous two: pro- or anti-GOLDWATER, as before; but also pro- or anti-Rockefeller, the new and dynamic dimension. Rockefeller faded badly as the negatives against him came under voter scrutiny again. GOLDWATER backed in the winner at the end in the last day of the campaign. There was no Farley's law here in California, either.

Now I've referred throughout to "Farley's law"; that is a standard interpretation of elections widely attributed to the former Postmaster General James A. Farley and widely held by political writers and pundits. It assumes that no vote switching takes place in elections. Therefore, it was really impossible for GOLDWATER to go from 55 to 43 to 45 to 49 to 51 percent in California.

Other people claim to the contrary, that primaries are so subject to volatile change and the vagaries of voter whims—what with no party polarization as an anchor point—that primaries are incapable of measurement and analysis.

Both views, Farley's law and the equally rigid anti-Farley's law, are wrong. Some primaries and some elections never change over 9 months or even 12 months' time. The Roosevelt elections of 1936, 1940, and 1944 were like this. The Kennedy-Morse primary in Oregon was this way in 1960. The primary for Governor of Georgia in 1962 and the primary for U.S. Senator in South Carolina that same year never showed a change from beginning to end.

But the West Virginia primary between Kennedy and Humphrey in 1960, the New York City mayoralty primary of 1961, the North Carolina gubernatorial primary of 1960, the last Louisiana gubernatorial primaries in 1959 and in 1963, as well as the New Hampshire, Oregon, Maryland, and California primaries of 1964 all showed rapid change and volatility at the end of the campaign.

The point is that each election is different and must be analyzed on a continuous basis with repeated interviewing right to the end. Primaries are somewhat more volatile and are much more treacherous for the poll taker. But they are capable of being accurately measured, as we proved in California.

Now let me return to what we learned in the primaries this spring. Easily the most important solid research breakthrough came from the marriage of computer reporting needs and polling requirements.

Fundamentally, polling consists of three crucial ingredients: (1) Locating the right people in the right place at the right time; (2) probing them in depth to understand the dynamics at work in the election (the real significance of such research); and (3) making sure people are leveling with you on their real choice.

There is dramatic evidence in your final envelope marked "No. 2" that I wish you would open now. These are official IBM reports of our vote profile analysis (VPA) in each of the five primaries we were in. Any of you can receive further documentation upon request.

It shows that when the final returns were in from our model points, the accuracy of the sample models was precise, indeed:

1964 VPA primary performance, official IBM results

NEW HAMPSHIRE REPUBLICAN PRIMARY

	VPA percent (42 of 42)	Actual percent	Actual vote
Lodge	35.3	35.3	33,521
Goldwater	22.7	22.9	21,775
Rockefeller	20.0	20.5	19,496
Nixon	16.5	16.6	15,752
Smith	2.6	3.0	2,812
Stassen	1.7	1.4	1,285
Scranton	.1	.1	72
Other	1.1	.2	157
Total	100.0	100.0	94,870

INDIANA DEMOCRATIC PRIMARY

	VPA percent (42 of 42)	Actual percent	Actual vote
Welsh	65.2	64.6	369,047
Wallace	29.7	29.9	170,727
Daly	2.8	2.7	15,223
Latham	1.2	1.5	8,630
Carpenter-Swain	1.1	1.3	7,396
Total	100.0	100.0	571,023

INDIANA REPUBLICAN PRIMARY

	VPA percent (42 of 42)	Actual percent	Actual vote (4,358 of 4,416)
Goldwater	67.2	67.1	262,181
Stassen	26.9	27.1	105,897
Beckwith	4.1	4.2	16,244
Ettl	1.8	1.6	6,463
Total	100.0	100.0	390,785

OREGON REPUBLICAN PRIMARY

	VPA percent (42 of 42)	Actual percent	Actual vote
Rockefeller	32.9	32.9	93,032
Lodge	28.1	27.7	78,227
Goldwater	17.8	17.6	49,784
Nixon	16.5	16.9	47,621
Smith	2.8	2.9	8,268
Scranton	1.9	2.0	5,716
Total	100.0	100.0	282,648

1964 VPA primary performance, official IBM results—Continued

MARYLAND DEMOCRATIC PRESIDENTIAL PRIMARY

	VPA percent (36 of 36)	Actual percent	Actual vote
Brewster	52.5	53.1	265,713
Wallace	43.1	42.7	214,123
Uninstructed delegation	2.6	2.5	12,427
Easter	1.8	1.7	8,513
Total	100.0	100.0	500,776

MARYLAND DEMOCRATIC SENATORIAL PRIMARY

	VPA percent (36 of 36)	Actual percent	Actual vote
Tydings	57.8	59.2	277,511
Goldstein	34.0	32.6	152,785
Harbaugh	4.3	4.8	22,460
Amaimo	3.9	3.4	15,756
Total	100.0	100.0	468,512

CALIFORNIA REPUBLICAN PRESIDENTIAL PRIMARY

	VPA percent (42 of 42)	Actual percent	Actual vote (not final)
Goldwater	50.8	51.5	1,107,307
Rockefeller	49.2	48.5	1,043,272
Total	100.0	100.0	2,150,579

Now the precincts we used in VPA were also the same precincts we used in our polling. The two were one and the same. In New Hampshire, the sample model result was dead on the actual result, in Indiana two-tenths of 1 percent off for Wallace, one-tenth of 1 percent off for GOLDWATER, in Oregon dead on, in Maryland four-tenths of 1 percent off Wallace, 1.4 percent off on Tydings, and in California seven-tenths of 1 percent too low for GOLDWATER. Overall, the average error was forty-four one-hundredths of 1 percent—even purer than Ivory soap.

These model precincts were not large numbers of people. In California, the total universe was 3,600 voters out of 3 million eligible. Yet the sample was right. Why? Because we have now developed means of going beyond probability sampling. The improvement of polls after 1948 was a conversion from quota sampling to probability sampling.

We have now come up with methods that build on and yet go beyond probability sampling. In California, we ran probability samples parallel to VPA model samples, and found the VPA samples over 1.5 percent more accurate. The same was true in New Hampshire and in other States. We are working on new methods to measure the error in this sampling, but we would estimate it will cut the traditional probability sample error in half. We consider this to be a major breakthrough in modern sampling. I might add that people working on NBC's computer model project feel they are also breaking the traditional probability barriers as well.

If we went to the right people in the right places, did we elicit from voters the proper answers? In California, we interviewed 3,000 out of 3,600 voters in our districts or the equivalent of 83 percent of the electorate—the most massive sampling ever undertaken in political research. When you consider that we reinterviewed some of the same voters three times, and when you consider that our final poll was eight-tenths of 1 percent off the final result in these precincts, we feel we can answer the question of people leveling with us—telling us the truth. And that is decidedly in the affirmative.

Now we could have left well enough alone at the end of our first poll in California and we'd have had GOLDWATER the winner as far back as May 10. That would have been highly irresponsible. For it would assume that the election couldn't change. What arrogance our critics have about the voters: They assume that voters are sheep who cannot or will not change their votes. They assume a static, one-shot poll with no depth can adequately measure public opinion in the second half of the 20th century. They assume that a poll of legislators or 20 monkeys at the zoo are the equivalent of letting people talk freely for an hour in a depth interview.

The fact is that most people are very direct, very blunt, and very much on the level. Most people are proud and delighted to express their views when they know the interviewer seriously cares about him. Most Americans are not deceitful, as some poll critics would make them out to be. In fact, the most totally ignorant observation made after California was that the Goldwater voters would not express their views or preference. What utter nonsense. Invariably, the Goldwater voters are the proudest of their convictions, are highly zealous in their views, and actually try to make a convert out of you, the interviewer. The interviewer can barely get out of the living room without being made to sign up in the cause. In California, Goldwater voters had big signs up in their front yards not proclaiming the house for rent or sale, but proudly saying, "GOLDWATER for President."

I would be less than frank if I did not enter one final note. I for one do not believe very much is gained by balancing two numbers on the head of a pin to prove how precise you can be. The usefulness of survey research is to find out what is happening, what dynamics have been unleashed, what is indeed going through the minds of the electorate as it makes its decision. This is what business buys marketing research for, because this dimension is the only one that can accurately and perceptively explain events.

For example, without polling it would not have been known in 1964 that Governor Rockefeller's divorce was a disastrous handicap his candidacy labored under from beginning to end. Only polls recorded widespread objection to Senator GOLDWATER's views on military and foreign policy. Again, however, only polls could document that GOLDWATER could be nominated not because of his views and stands, but in spite of them. Why? Because GOLDWATER is appealing as a personality, not as a latter-day embodiment of conservatism. In fact, in his stands, GOLDWATER is looked on as radical rather than a Bob Taft type conservative. Finally, only polls could tell that at the time they voted, 40 percent of Republicans in California liked Lyndon Johnson better than BARRY GOLDWATER or Nelson Rockefeller. And this made the choices both volatile and vicarious.

I cite these poll results for they have far more significance in the end than the decimal point nonsense that our critics engage in.

Basically, we are social scientists and reporters, not soothsayers or mediums. And just as a reporter would be fired for fudging his facts or a scientist for tinkering with his data, we shall report the facts as we find them, honestly, objectively, and in depth with perception, we hope. We have learned much this spring about sampling and repeated interviewing in limited model points. We shall learn more. My earnest desire is that our critics follow these developments with care and accuracy. Without them, life would be dull, but they, too, can be dulled into thinking polling is what it was 20, 10, or even 1 year ago. Survey research will continue to grow because along with other mysteries modern man faces—the depths below us in the oceans, the human brain—is the relationship of human beings to each other. And yet, our survival may well in the end depend on it. I can stand the heat in the oven if you can stand our efforts to learn about the behavior of men, and I'd be less than frank if I didn't say the experience should really be good for both of us.

U.S. MINISTER TO BULGARIA DOING A BIG AND DIFFICULT JOB

Mr. HUMPHREY. Mr. President, in the May 5 Minneapolis Tribune there was an article about the U.S. Minister to Bulgaria, Mrs. Eugenie Anderson. It was written by Mrs. Dorothy Walton Binder, who was a recent guest of the American Legation in Sofia. I would like to insert this article in the RECORD as a tribute to Mrs. Anderson for the difficult diplomatic job she is doing superbly as U.S. Minister to Bulgaria. The United States and Bulgaria have suffered strained relations for some time and Mrs. Anderson's position would seem, by many, to be almost untenable. But the warmth and charm of her personality and her keen perception of her responsibilities have made a host of friends for the United States in Bulgaria. My friendship with Mrs. Anderson goes back many years, and in each year of this friendship my respect and admiration for this gallant and wise lady have increased.

I ask unanimous consent to have the article printed in the RECORD at this point.

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

IT'S A BIG AND DIFFICULT JOB FOR U.S. MINISTER TO BULGARIA

(EDITOR'S NOTE.—Mrs. Binder has just returned from a 7-week trip to Europe, where she was a guest of the American legation in Sofia and spent some time with her son and daughter-in-law, the David Binders, in Belgrade. Binder, a former Minneapolis Tribune staff member, is now correspondent for the New York Times. His assignment covers Yugoslavia, Greece, Rumania and Bulgaria.)

(By Dorothy Walton Binder)

Being a guest of the American legation in Sofia, Bulgaria's capital, is like finding an island of Minnesota hospitality in the turgid sea of communism. Its hostess is Eugenia Anderson, of Red Wing, Minn., American Minister to Bulgaria, and its host, John Anderson, artist and philosopher.

We had driven the 250 rainy miles from Belgrade on the new two-lane "international highway," interrupted ever so often by stretches of original Turkish road now just a series of muddy potholes. The scenery couldn't have been prettier. Yugoslavia and Bulgaria share magnificent mountains and as we sped up and down and around them we marveled at the patchwork crops in every available spot, planted and cultivated with rakes and hoes mostly by peasant women, looking like distant flowers in their bright babushkas.

Between Belgrade and Sofia were four filling stations and two motels, new feathers in tourism's cap. There was, however, almost no traffic along the way and we hustled into downtown Sofia, practically the only car on the boulevard though shabby people in droves walked up and down the main streets.

Sofia is a beautifully planned city with wide, tree-lined streets and many parks but its buildings are coldly majestic and grim, either a dark grey or dirty mustard color and its new blocks of apartments are like those in Moscow, stern and ugly.

So when we arrived at the American legation residence near the center of town and were greeted warmly and affectionately by the Andersons we felt the gloom suddenly dispelled. We were introduced to two of the domestic staff who were obviously devoted to the Andersons.

The legation is a big square stone house on a quiet street, and near other foreign legation residences. You climb the stairs from the ground floor and all at once you are transported back to America and to a comfortable American home. It was a raw May day. A fire was burning in the fireplace and, tired from the long drive, we were grateful for the comfortable sofa and deep lounge chairs, a rarity in Eastern Europe. Tea was brought and we chatted about Minnesota and about Bulgaria and the many problems confronting this small country behind the Iron Curtain and our relations with it.

Eugenie Anderson's task is no small one. Ever since the spy trial last December and the stoning of the American Embassy windows by angry Bulgarians, our relations with Bulgaria have been in the deep freeze. There is no USIS center in Sofia with its libraries, publications, films, and lectures as in Belgrade. The only information the Bulgarian Government allows us to share with its people is a changing exhibit of news and feature pictures posted outside the legation. There is always a small crowd gathered there studying the pictures. Mrs. Anderson feels deeply that it is her mission to ease these tensions and find a way of communication. This is not easy.

Encouraged by the enthusiastic welcome given five American cardiologists (one from the Mayo clinic) by Bulgarian doctors a week earlier, Mrs. Anderson gave a dinner party for five Bulgarian couples while we were there. All but one were government officials connected with foreign trade or the press or tourism. They were invited for 8:30, the usual time for Bulgarian dinner parties. And they were late.

"Maybe they won't come," Mrs. Anderson mused. She had tried this once before and only a fraction of the Bulgarian guests turned up. But finally they arrived.

The table conversation sounded like the United Nations. Americans who could not speak Bulgarian tried out their French or German or even Russian. One Bulgarian press officer who had just returned from 3 years in the United States spoke fluent English. The table was exquisite with daffodils and double narcissi as a centerpiece. The dinner was delicious, American cooking with a French touch. The guests obviously enjoyed themselves. At dessert time, Mrs. Anderson gave a toast to her Bulgarian guests stressing the importance of friendly relations between our two countries and hoping that many more opportunities would come when Bulgarians and Americans would break bread together. There was no clapping and no responding toast.

It was a discouraged hostess who remarked after the Bulgarians had left, "That's what I mean. There's no communication. They used to respond to toasts. Now each one is afraid the other will tell the higher-ups that so-and-so was pretty friendly. But we must be patient and keep on trying." Sometimes we talked in whispers, for who knows whether microphones are concealed in the walls?

Another evening we went to a Hungarian restaurant. It was crowded, for the food was good and the orchestra gay. Everyone seeks to dispel the encircling gloom. A couple of men nearby kept eyeing our table. Finally

they came over and spoke to Mrs. Anderson. They were Danes and they recognized the former minister to Denmark. "We will never forget you," they told her.

We doubt if the Bulgarians will ever forget Eugenie Anderson, either. When she steps out of the official long black limousine with its U.S. flags flying to enter the legation office building the crowd around the photo display parts respectfully to let her go by.

Smartly but simply dressed, with immaculate white gloves, she greets them with her radiant and friendly smile and often they smile back. For them she is a creature from that other world they hear about clandestinely. After all a smile is communication, too. The Bulgarians will remember Eugenie Anderson's.

CONVEYANCE OF CERTAIN REAL PROPERTY OF UNITED STATES TO CITY OF GRAND PRAIRIE, TEX.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 998, House bill 8462, which was discussed in some detail the other day. I ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 8462) to authorize the conveyance of certain real property of the United States heretofore granted to the city of Grand Prairie, Tex., for public airport purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, with an amendment, to strike out all after the enacting clause and insert:

That (a) subject to the provisions of section 2 of this Act, the city of Grand Prairie, Texas, shall be authorized to convey to the highest bidder all right, title, and interest of such city in and to certain real property transferred to such city for public airport purposes by the United States. Such real property consists of a tract of land containing 127.99 acres, more or less, comprising a portion of the 195.82-acre tract situated in the county of Dallas, State of Texas, described in the deed dated May 22, 1962, entered into between the United States as grantor, acting by and through the Secretary of the Army, and the city of Grand Prairie, Texas, as grantee, and more particularly described as follows:

Being a tract or parcel of land lying and situated in Grand Prairie, Dallas County, Texas, and a part of the McKinney and Williams survey, abstract numbered 1045 and the Elizabeth Gray survey, abstract numbered 517.

Beginning at a point on the east right-of-way line of Carrier Parkway (formerly Southwest Eighth Street) where it intersects the south boundary line of the McKinney and Williams survey, abstract numbered 1045, said point being the northwest corner of lot 17, block 9, of the Indian Hills Park addition to the city of Grand Prairie:

thence south 0 degree 33 minutes 30 seconds west along the east right-of-way line of Carrier Parkway a distance of 2,683.0 feet to the southeast corner of Grand Prairie Airport;

thence north 89 degrees 34 minutes 30 seconds west a distance of 1,509.8 feet along the south boundary line to a point, said point being 200 feet easterly of and perpendicular to the extended centerline of the north-south runway;

thence north 1 degree 19 minutes 30 seconds west and parallel to said centerline a distance of 2,670.35 feet to a five-eighth-inch pipe, said point being 200 feet easterly of and perpendicular to said centerline;

thence north 0 degree 52 minutes west, 1,050 feet to a one-half-inch rod, said point being the eastermost southeast corner of a 42.39-acre tract presently owned by the United States of America and licensed to the Texas National Guard;

thence north 8 degrees 20 minutes 30 seconds west a distance of 691.70 feet to a point on the south right-of-way line of Jefferson Avenue;

thence north 81 degrees 39 minutes 30 seconds east along the south right-of-way line of Jefferson Avenue a distance of 249.06 feet to the northwest corner of land known as General Services Administration land acquisition;

thence south 8 degrees 20 minutes 30 seconds east a distance of 330 feet to a point for General Services Administration land's southwest corner;

thence south 44 degrees 41 minutes 30 seconds east following General Services Administration land's southerly boundary line a distance of 2,016.45 feet to the place of beginning and containing 127.99 acres of land, more or less,

together with the rights appurtenant to the above-described land, under and by virtue of the restrictive condition contained in deed without warranty dated January 12, 1961, recorded in volume 5490, page 26, Deed Records of Dallas County, Texas, whereby the United States of America conveyed 31.97 acres of adjacent land, more or less, to Jerome K. Dealey, Dallas, Texas, said restrictive condition in said deed without warranty from the United States of America to the said Jerome K. Dealey providing that the construction of buildings or improvements on the land therein and thereby conveyed shall be restricted in height so that there will be no obstructions above the plane of an approach zone with a glide angle of 20:1 where the zero elevation beginning point for the glide angle is fixed by starting at a 1¼-inch iron pipe, being the northwest corner of the Indian Hills Park addition (abstract 517) to the city of Grand Prairie, Texas, as shown in volume 17, page 365 of the Plat Records of Dallas County, Texas, and the northwest corner of lot 17, block 9 of said Indian Hills Park addition; thence, north 40 degrees 3 minutes west 905 feet, more or less, to the intersection of such line with the center line of an existing asphalt runway; said approach zone plan to be 250 feet wide, extending 125 feet on either side of point of beginning and 410 feet wide at 20:1 slant distance of 1,600 feet along the runway center line extending from the point of beginning.

(b) Subject to the provisions of section 2 of this Act, the city of Grand Prairie, Texas, shall convey to the United States, acting by and through the Secretary of the Army, all right, title, and interest of such city in and to certain real property transferred to such city for public airport purposes by the United States. Such real property consists of a tract of land containing 67.83 acres, more or less, comprising a portion of the 195.82-acre tract situated in the county of Dallas, State of Texas, the exact legal description of which property is contained in the deed dated May 22, 1962, entered into between the United States as grantor, acting by and through the Secretary of the Army, and the city of Grand Prairie, Texas, as grantee, and more particularly described as follows:

Being a tract of land situated in the county of Dallas, State of Texas, and being part of the McKinney and Williams survey (A–1045) and part of the Elizabeth Gray survey (A–517), and being more particularly described as follows:

Beginning at a 1¼-inch pipe at the intersection of the south boundary line of said Elizabeth Gray survey with the east right-of-way line of Southwest Fourteenth Street (formerly locally called Twelfth Street Road), said pipe being located south 89 degrees 26 minutes east, 20 feet from the southwest corner of said Elizabeth Gray survey;

thence along the boundary line of a 195.82-acre tract of land conveyed by the United States of America to the city of Grand Prairie by deed without warranty dated May 22, 1962, and recorded in volume 5810 at page 206 of the Deed Records of Dallas County, Texas, as follows: along the east right-of-way line of Southwest Fourteenth Street, north 00 degrees 22 minutes 30 seconds east, 1,154.45 feet to a five-eighths-inch pipe, said point being the southernmost corner of a 42.39-acre tract presently owned by the United States of America and licensed to the Texas National Guard;

thence along the boundary line of said 42.39-acre tract as follows: north 29 degrees 32 minutes 30 seconds east, 981.15 feet to a one-half-inch rod, said point being perpendicular to and 400 feet west of the centerline of a north-south runway;

thence north 01 degrees 19 minutes 30 seconds west, along a line parallel to and 400 feet west of said centerline, 1,476.75 feet to a one-half-inch rod on the south boundary line of the most western ramp;

thence north 81 degrees 59 minutes 30 seconds east, 614.10 feet to a one-half-inch rod, said point being the easternmost southeast corner of said 42.39-acre tract, and a reentrant corner of aforesaid 195.82-acre tract;

thence departing from the boundary line of said 195.82-acre tract and said 42.39-acre tract, severing said 195.82-acre tract, south 00 degrees 52 minutes east, 1,050 feet to a five-eighths-inch pipe, said point being 200 feet easterly of and perpendicular to the centerline of said runway;

thence 200 feet easterly of and parallel to said centerline and its southerly extension, south 01 degrees 19 minutes 30 seconds east, 2,670.35 feet to a railroad spike set in a south boundary line of said 195.82-acre tract, same being the south boundary line of the Elizabeth Gray survey;

thence along the boundary line of said 195.82-acre tract as follows: along the south boundary line of said Elizabeth Gray survey, north 89 degrees 34 minutes 30 seconds west, 47.5 feet to a point in the east boundary line of the William C. May survey (A–890);

thence along the common line between said May and Gray surveys as follows: north 00 degrees 02 minutes west, 138.4 feet to a three-fourths-inch rod for the northeast corner of said May survey and a reentrant corner of said Gray survey;

thence north 89 degrees 26 minutes west, 1,091 feet to the point of beginning, containing 67.83 acres, more or less.

(c) Subject to the provisions of section 2 of this Act, the city of Grand Prairie, Texas, shall convey to the United States such avigation, clearing, and restrictive easements over the 127.99 acres described in section 1(a) of this Act, as the Secretary of the Army, after consultation with the Administrator of the Federal Aviation Agency, shall determine necessary to provide adequate lateral and transitional zone clearance for the operation and utilization of the airstrip (runway) located within the 67.83 acres of land described in section 1(b) of this Act.

SEC. 2. (a) The sale referred to in subsection (a) of the first section of this Act shall be authorized in writing by the Administrator of the Federal Aviation Agency, only after—

1. A site for a new airport has been selected and the Administrator, Federal Aviation Agency, has determined that such site is capable of being developed and used as an airport adequate to meet the needs of Grand Prairie;

2. A plan for construction of airport facilities at the new site has been submitted to and approved by the Administrator, Federal Aviation Agency;

3. The city of Grand Prairie has, through advertising and sealed bids, provided assurances that construction of airport facilities can be accomplished in accordance with the plan submitted to and approved by the Administrator, Federal Aviation Agency; and

4. The city of Grand Prairie has, after advertising, received sealed bids on the 127.99 acres to be sold and determines that the bid to be accepted is in an amount equal to or greater than the combined costs of acquiring land for a new airport site and constructing the airport facilities thereon in accordance with plans submitted to and approved by the Administrator, Federal Aviation Agency.

(b) Airport facilities constructed with the proceeds of the sale authorized in section 1(a) shall be only those kinds of facilities which are eligible for construction with Federal funds under Federal Aviation Act. Any proceeds of the sale of the 127.99 acres in excess of the amount needed for acquisition and construction at the new site shall be paid to the Administrator of the Federal Aviation Agency. The Administrator is authorized to receive such excess proceeds and to use such proceeds for the purposes of the discretionary fund established under section 6(b) of the Federal Airport Act.

(c) The real property acquired by the city of Grand Prairie, Texas, with the proceeds of the sale authorized pursuant to subsection (a) of the first section of this Act shall be subject to such terms, exceptions, reservations, conditions, and covenants as the Administrator of the Federal Aviation Agency, after consultation with the Secretary of the Army, may deem appropriate to assure that such property will be held and used by such city for public airport purposes; and also subject to the condition that the United States and its assigns, agents, permittees, and licensees (including but not limited to the Texas National Guard) shall have the right of joint use, without charge of any kind, with the city of Grand Prairie of the landing areas, runways, and taxiways for landings and takeoffs of aircraft, together with the right of ingress and egress to said landing areas, runways, and taxiways.

(d) Subject to the approval of the Administrator of the Federal Aviation Agency with respect to the coordination of the sale authorized by him under the foregoing provisions of this section with the conveyance required by this subsection, the city of Grand Prairie, Texas, shall convey, without monetary consideration therefor, to the United States, acting by and through the Secretary of the Army, that tract of land containing 67.83 acres, more or less, situated in the county of Dallas, State of Texas, the exact legal description of which is set forth in subsection (b) of the first section of this Act; together with all such avigation, clearing and restrictive easements described in section 1(c) of this Act.

(e) The enactment of this Act shall in no manner serve to waive or diminish the existing obligations of the city of Grand Prairie, Texas, to operate and maintain these lands as a public airport until such time as a final determination thereon is made by the Administrator of the Federal Aviation Agency: *Provided further,* That the city shall continue to provide, without cost to the Department of the Army, for the repair, maintenance, and operation of the existing Grand Prairie Airport and related facilities until such time as the same is reconveyed to the United States, and/or the civilian use of this airfield is transferred to the proposed new city airport.

SEC. 3. The provisions relating to the reversion to the United States of legal title to certain real property in the event it is not used for airport purposes contained in the deed dated May 22, 1962, entered into between the United States as grantor, acting by and through the Secretary of the Army, and the city of Grand Prairie, Texas, as grantee, are hereby declared to be null and void from and after the date of the disposal of said property in compliance with the provisions of this Act, to the extent such provisions apply to the 127.99 acres, more or less, described in subsection (a) of the first section of this Act.

SEC. 4. The Administrator of the Federal Aviation Agency shall issue and obtain such written instruments as may be necessary to carry out the foregoing provisions of this Act. However, prior approval of the Secretary of the Army shall be obtained as to those instruments of direct concern to the Department of the Army, and the Secretary of the Army is hereby authorized and directed to accept, on behalf of the United States, all instruments of conveyance of such real property and real property interests as are conveyed to the United States pursuant to the foregoing provisions of this Act, and to accept custody and control of such property.

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

Mr. MANSFIELD. I yield.

Mr. YARBOROUGH. Mr. President, I am pleased that the Senate is passing H.R. 8462 authorizing transfer of the Grand Prairie, Tex., airport. The bill is a companion to my bill, S. 2262, and is strongly supported by all local interests in the Grand Prairie area.

Grand Prairie has a 195-acre general aviation airport which it shares with the Texas National Guard. The airport was acquired at no cost in 1962 from the Army under section 16 of the Federal Airport Act, which authorizes such transfers for airport use where the Federal agency has no further use for the land. A reversionary clause was retained in the deed to Grand Prairie, that if the land ceased to be used for airport purposes it would revert to the United States.

Since the airport is near downtown Grand Prairie, has inadequate facilities, and congested approaches, the city wishes to relocate an airport several miles out of town. They propose to do this by selling off 127 acres of the airport to the highest bidder, and applying the proceeds to acquisition and construction of a new airport. The remaining 66 acres would be returned to the Army National Guard for its use as a small airport, and the existing reversionary clause would be shifted to the new airport.

The Federal Aviation Agency would supervise the sale, the selection of the new site, and design of the airport, certify adequacy of the proceeds, and approve final transfer of the land.

As of now, the Government owns only a reversionary interest in the present 195-acre airport, with a right of use by the National Guard. After the proposed transfer the Government will own in fee the returned 66 acres, a reversionary interest in the new airport, and a right of use of the new airport by the National Guard.

I thank my colleague, the senior Senator from Oklahoma [Mr. MONRONEY], for his help and cooperation as chairman of the Aviation Subcommittee in holding hearings and working with this bill until perfected by amendments.

Mr. MORSE. Mr. President, this bill would authorize the city of Grand Prairie, Tex., to substitute newly acquired airport facilities for those acquired from the Federal Government in 1962 pursuant to section 16 of the Federal Airport Act.

The 1962 act conveyed 195.82 acres to Grand Prairie. H.R. 8462, as amended by the Senate Commerce Committee, would authorize the reconveyance of 67.83 acres to the United States.

The remaining 127.99 acres would be sold by Grand Prairie, free of the statutory restrictions and covenants required by the Federal Airport Act.

The proceeds of the sale would be used by Grand Prairie to acquire a new airport site, subject to the same restrictions, conditions, and limitations, as those which applied to the original 195.82 acres.

Any excess money, not used for new airport construction would be returned to the United States.

Inasmuch as all the conditions, restrictions, and limitations of the 1962 conveyance are imposed on the new airport property, no violation of the Morse formula is involved.

I am gratified to note that the House sponsor of H.R. 8462 has concurred in the amendments which were worked out in committee by my good friend, the Senator from Texas [Mr. YARBOROUGH].

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

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.

PUBLIC WELFARE IN NEW YORK

Mr. JAVITS. Mr. President, although New York State has enjoyed one of the most advanced welfare programs in the country, it has made substantial additional progress as a consequence of the 1962 amendments to the Social Security Act and new State legislation. The State is playing a significant role in recruiting and training professional workers, and is also seeking coordinated action in the war on poverty, by stimulating and encouraging local community action to provide better health care, improved living conditions, literacy classes, vocational training, and retraining. These and other related activities were reported

recently by Commissioner George K. Wyman. I ask unanimous consent to have printed in the RECORD, Mr. Wyman's speech at the 93d annual meeting of the New York Public Welfare Association, held at Lake Placid, N.Y., on June 18.

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

REMARKS BY GEORGE K. WYMAN, STATE COMMISSIONER OF SOCIAL WELFARE, AT THE 93D ANNUAL MEETING OF THE NEW YORK PUBLIC WELFARE ASSOCIATION, WHITEFACE INN, LAKE PLACID, N.Y., THURSDAY, JUNE 18, 1964

I want to talk with you today about our new responsibilities, and how they have changed our public welfare job and extended our obligations to the community.

First, let's consider the people we work for. Those of us who believe we work exclusively for local government, or the State, or the Federal Government had better update our viewpoint. We work for all the people of the United States, because they pay over one-third of the public welfare bill of every locality in the State. We work for all the people of New York State, for approximately one-third of all of our public welfare funds come from them. And we work for the people in each and every one of the 65 local public welfare districts in the State, since local taxes comprise almost one-third of our welfare funds. So every one of us—elected or appointed, local, State or Federal—has a total, undivided obligation to represent, and act in the interest of, all three levels of government.

I underline all this for a simple, not-to-be-forgotten reason: the Federal Government has undertaken a dominant role in public welfare in the United States. And that means in New York State and in every one of the 65 local welfare districts. Congress has authorized this new and greater Federal role. It has recast the Social Security Act to provide extended Federal leadership designed to make public welfare operations everywhere in the Nation more effective than they have ever been before in dealing with problems of public indigency. The Congress has also underwritten this greater Federal approach by making available more Federal funds—new funds as well as increased funds, up to 75 percent reimbursement in many instances—to realize the basic goals of prevention and treatment of indigency through a variety of activities. These actions include, where necessary, expanding staffs, reducing caseloads to manageable size, employing especially skilled caseworkers, training public welfare staffs, setting up demonstration projects, analyzing caseloads and making plans for each case—and just about everything else necessary to do a first-rate public welfare job.

This Federal pushing and this Federal money will go a long way toward removing or minimizing the obstacles that have prevented public welfare from doing the kind of job it has always wanted to. As you know, those obstacles have included lack of staff; lack of special skills in rehabilitation; lack of decent salaries to attract and hold able people; lack of public understanding of the basic causes of public dependency and how to deal with the causes and results; lack of time and effort on the part of overburdened staffs to stimulate other agencies to deal with problems that are primarily their concern and over which public welfare has no control—inadequate education, inadequate work skills, inadequate housing, inadequate medical care, and all the rest of it.

However, the 1962 amendments to the Social Security Act and new State legislation have made it possible to move forward in public welfare.

In New York State, for example:

We have already carried out most all of the recommendations of the Moreland Commission on Welfare.

We have made enormous progress in dealing with the problems of inadequate staffs. Last year the local welfare departments hired almost 100 additional workers, primarily to carry out the new Federal directives.

We are now operating a State training program that is giving special graduate training or inservice training to 600 local social service workers, and your departments are training another 600. In addition, there are now six training directors in local welfare departments, and their salaries are reimbursed 100 percent.

Examining caseloads in depth, making a social study of every ADC family, every child recipient, and others with special problems, has become standard procedure in New York State.

Minimum salary legislation has been passed so that unfair salaries now being paid to public social workers will be mandated out of existence next April. But there is nothing to stop any local welfare district with inadequate salaries from making the decent, economical, and wise move of correcting such a situation right now so that it can get the staff it needs and improve its efficiency without delay.

As you know, with the cooperation of the New York Public Welfare Association, we tried to get legislation to establish qualifications for the position of local welfare commissioner and for the appointment of qualified individuals, rather than the election of individuals to this important public post. We will try again next year, with your help, and hopefully we will succeed.

A great deal more is being done to assist you in administering the public welfare programs in this State. Let me mention a few of these efforts:

Public information services: In line with the recommendations of every group that has studied public welfare operations in New York State, in conformity with the recommendations of the Federal Department of Health, Education, and Welfare to State and local welfare departments, and in response to the needs of many local departments in this State, we have engaged an experienced newspaper executive—Mr. Edward Bradley Boyle—to assist you to establish public information services at the local level.

Mr. Boyle will help us to do the job that needs to be done, to identify the causes of public dependency—lack of health, lack of education, lack of work skills, lack of housing—and, with your cooperation, to stimulate local community action to prevent or correct such mass-scaled poverty where possible through better health care, literacy courses, vocational training and retraining, improved living conditions, and other action. Many of these causes and correctives are outside the control of public welfare—and it is urgent that you make this all-important fact clear, just as it is imperative that you take the leadership, and exercise your official responsibility, in encouraging community action in all these other fields.

Certainly this is the climate in which to do an effective public interpretation job. All over America the mass, regional, and local news media have been interpreting the causes of poverty, and the American people are beginning to understand how undereducation, lack of skills, poor physical and mental health, substandard housing, and other conditions produce the massive indigency that exists everywhere in the United States. It is your responsibility to do a local job of interpretation. After all, your local news media have been publishing and broadcasting information on poverty, and they will expect you to be aware of conditions in your own district.

I sincerely hope that, in the face of all this interpretation by the newspapers, magazines, television and radio stations, none of us will try to explain the welfare caseload by blaming it on welfare policies—State, Federal, or local—or hinting that welfare rolls are loaded with chiselers. Today the American people know better.

I have been in public life a long time, at all levels of government, and I understand the public relations problems of a public welfare official, especially in a community that has not been made aware of the economic and social facts of life, and resists recognition of those facts. There is a temptation to take the line of least resistance, pressure to identify with such community opinion however mistaken it may be, and even the motivation to get a little publicity mileage by denouncing the State or the Federal Government or something else for this, that, or the other.

But I think all of us will agree that today the public is more informed than ever. An informed public will expect its public welfare commissioners to explain their caseloads thoughtfully, objectively, and convincingly, and to report on their efforts to minimize dependency—making factors in the same terms.

Let's go on to other progress we have made and are making.

Medical services: Under the leadership of Dr. Carlyle Nuckols, the Department's Division of Medical Services will soon be working with you more closely than ever in the whole area of medical care services, the cost of which is more than one-third of all our expenditures.

Research and statistics: We can promise you similar interest and action in the fields of development, collection, processing, and evaluation of statistical and research data under the direction of Dr. Harry Posman. And we will get at many longstanding social problems.

Automation processes: Mr. Seth S. Grossman, who heads up our electronic data processing, will be advising you on computer programs, will design such systems for you where they are needed, and will otherwise help you to automate your operations, if indicated. Mr. Grossman comes to us from the International Harvester Co., where he was manager of that organization's computer services.

Literacy, vocational training, and other programs: With the help of our friends in education and manpower training, we are getting underway programs to teach illiterate welfare recipients to read, write, and use other basic skills to qualify them for employment or vocational training or retraining. Hopefully, several thousand recipients will benefit from the literacy training in fiscal 1964–65 in localities throughout the State. We will also do much more in the way of training for better parenthood and better home conditions. In each of these local communities our staff will be working with you to help assure the success of these important measures.

Home services for children: We are planning family day care services for children, a statewide study of day care facilities to assess present and future needs, revision of our regulations to make these services more responsive to current needs, and three local pilot projects. A distinguished advisory committee is advising us in these various undertakings. Homemaker, preventive and protective services are being established and expanded by local departments of welfare.

These and other services will help us to do a more effective job.

The welfare caseloads in this Nation, in this State, in your districts, can be held to a minimum, even with a constantly rising population, which means more needy aged, more disabled, more sick, more chronically ill, more mentally ill, more dependent children, more unskilled workers, and more low-income families. Our caseloads can be held to a minimum—and hopefully reduced—by helping welfare recipients toward self-support and self-care, wherever possible, by preparing them, the least-endowed among us, for whatever opportunities society may make available to them today or tomorrow.

These are the goals of the 1962 amendments to the Social Security Act, the social welfare law in 1964, the recommendations of the Moreland Commission on Welfare, the policies of the State board of social welfare. They all add up to a combination of warm heart and cool head which, with conviction and will on the part of all concerned—you, the State staff, our Federal friends—should pay dividends to taxpayer and welfare recipient alike.

As the State commissioner of social welfare, it is my job to see that these mandates and policies are carried out. And it's the job of the staff of the State department of social welfare. These overriding requirements of law, policy, and public purpose must be fulfilled in each of the 65 public welfare districts in the State. This is our common obligation. As of now, the State staff will concentrate on this task—and stay with it.

I don't have to tell you that there is no other answer to the problem of dealing effectively with mass-scaled public indigency than a high standard public welfare administration designed exactly for that purpose, as projected in current legislation. Anything less means waste of human resources and waste of public funds.

We can have that kind of efficient public social service—

If public welfare leadership faces up to its obligations;

If staffs are adequate in number and in skills;

If communities are informed on the causes of dependency and what must be done to correct or alleviate those causes;

If the pace and level of action are dynamic and aggressive;

If you and I prevail against the tired myths and outworn superstitions that libel as work dodgers and chiselers our destitute sick, our bereft aged, our medically certified disabled, our unfortunate blind, the luckless children who comprise half of all welfare recipients, their mothers who take care of them, the mentally retarded, the mentally ill, the illiterate, the unskilled, the skilled whose experience is obsolete, the thousands of hardworking parents who work for wages that are even less than our minimum subsistence welfare grants and thus require supplementary help, and the others who cannot go it alone.

All of us know that only a limited number of these adults can be helped to self-support. I have heard complaints about going through all this rehabilitation stuff to take care of so few potentially employable recipients. There are few. But there will be others tomorrow and the next day—and as far into the future as you or I can see. Stimulating the development of these literacy and vocational training programs and referring welfare recipients to them are not one-shot temporary operations, something just for today. They are for keeps. They will be part and parcel of the new public welfare structure we are building with public support and by public demand. They will become as much standard procedure as checking eligibility, authorizing a money grant, or providing needed medical care.

So will be our efforts to do everything we can to minimize the school dropout situation. After all, more than half of our welfare recipients are children. And we have no more urgent task than to do everything we can—directly through public welfare services, and indirectly by using all other community resources—to see that these children get the chance to make themselves self-sustaining adults.

So will be our efforts to help our families to manage their minimum subsistence budgets and their household, and to rear their children toward self-reliance and away from dependency.

All these activities, from now on, will become standard public welfare procedures in New York State as they will elsewhere in the Nation. We must have the staff to do the jobs. Some of you have substantial problems in getting permission to expand your staffs, however necessary that is. You may have a hard negative approach to public welfare stopping you.

But, whether the approach to public welfare in your community is a mistakenly negative one ("there are a lot of chislers on the rolls,") or an informed positive one ("adequate, skilled services can prevent and reduce indigency,") the dollar-sense, the economics, the savings advantage of employing adequate staff for these purposes should be obvious. The average public assistance case costs $155 a month. Every case helped to self-support, or closed because of ineligibility, means an annual savings of nearly $1,900. If every needed additional caseworker you hire helps to close only a dozen cases a year, she could earn her salary several times over. Obviously nothing could be more costly to the taxpayers—local, State, Federal—than failure to hire needed staff. As a public welfare official in the State of New York, responsible to your local government, your State government, and your Federal Government, it is your job to make this clear to the people of your welfare district as well as your board of supervisors.

A word about complaints: Please don't let them get in the way of your official obligations. You may not like this policy of the Federal Government or that procedure of the State. And there may be Federal people and State people who don't like some of your local practices. All this is understandable. You and I don't like the so-called quality control program mandated by the U.S. Department of Health, Education, and Welfare. We went through channels—administrative, legislative, and executive—to explain our objections and to propose alternatives. To date, nothing has come of our representations. Time and experience will probably prove our point and changes may then be made. In the meantime, all of us have a job to do that must be done. So let's get with it.

I am sure every one of you must know that nowhere in the United States is there more cooperation between local public welfare administrators and the State welfare agency than there is in New York State. We in the State work closely with your association and its several committees, and have for many, many years. You who are members of association committees and have worked with State staff over the years know how proposed policies and practices are discussed, evaluated, and adjusted in the light of your views and suggestions before they are officially adopted. Certainly every commissioner in this State must know as a matter of personal knowledge that he can discuss his official problems with appropriate area office staff, with his area director, and, if necessary, with any other official of the department. Every hour of the working day members of the department are in touch with you or your staffs.

Our job is cut out for us. Beginning next week the area directors of the State department of social welfare, at my request, will concentrate on:

(1) What you have done to develop the services you should have in your departments in this day and age.

(2) How adequately you are manning those services.

(3) What your plans are to continue to build an efficient, high standard welfare operation to meet the needs in your district.

In other words, exactly what are you doing to get the most prevention and rehabilitation possible out of the welfare dollar. More than ever, with public dependency spotlighted all over America, the people we work for will be asking that question—and we should be prepared to give the answer.

I think all of us in public welfare should take heart from two major facts: One, just about everything in the 1962 amendments represents objectives, programs, and services that knowledgeable public welfare people have been advocating for years. Two, no other branch of government has done more to raise its administrative standards, to improve its efficiency, and otherwise better its performance than public welfare. I doubt that any branch of government is performing a better job than this necessarily difficult and complex public business of serving the welfare of all, the community in general as well as its economically or socially destitute.

From now on our State survey reports and other studies will focus on these objectives, activities, and results. These reports will indicate what the needs of your department are, to what extent those needs have been met, the problems that exist because of failure to develop an efficient operation, and what improvement can be expected from a better functioning department.

If you have a problem of community understanding or support, you might consider using these factual survey reports to build better communications with the people in your district, with your boards of supervisors, and with other officials in your community who have a stake in public welfare operations. As you know, these reports are in the public domain, and they can be used effectively in the public interest.

To the commissioners of public welfare I say this final word. This job requires a warm heart and cool head.

Without both, you are likely to get into trouble. You are a public official who has a key responsibility in a Federal-State-local operation that involves the critical subsistence of 700,000 of the most unfortunate men, women, and children in this State, people who cannot survive without public assistance or public care. All this costs nearly $700 million annually. Almost $95 million of that money is spent for the administration of your 65 local public welfare departments.

The people we work for—the people in the local communities, in the State, and in the Nation—have a right to expect an efficient, modern, productive, high-standard operation for that kind of money.

Let's see that they get it.

THE SENATE SHOULD ACT NOW FOR A WORLDWIDE AFFIRMATION OF HUMAN RIGHTS

Mr. GRUENING. Mr. President, now that the Civil Rights Act of 1964 seems well on its course for enactment into law, it is time for the United States to rectify its posture on civil rights before the world by the early ratification of four

international conventions long pending before the Senate Committee on Foreign Relations.

In an editorial in the New York Times this morning, the statement is made:

Now that the congressional battle over the domestic civil rights bill is largely won, the Johnson administration, like the Kennedy administration before it, is making new efforts to get Senate approval of the global "civil rights" compacts. Secretary Rusk and Assistant Secretary Cleveland have spoken out forcefully against any "abdication" in this field. It is time for the American people to rally to their support and compel action that is long overdue.

I ask unanimous consent that the entire editorial be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GRUENING. Mr. President, the four international conventions are:

First. International Convention on the Prevention and Punishment of the Crime of Genocide;

Second. Supplementary Slavery Convention;

Third. Convention Concerning the Abolition of Forced Labor; and,

Fourth. Convention on the Political Rights of Women.

The first convention—the Genocide Convention—was sent to the Senate for its advice and consent by President Truman on June 16, 1949. Surely 15 years is sufficient time for the Senate to deliberate on this vital matter. The extermination of 6 million Jews in Germany should provide sufficient incentive for the United States to adhere to this convention which seeks to prevent the repetition of such a horrendous crime against humanity.

The other three conventions were sent to the Senate for its advice and consent by President Kennedy on July 22, 1963. In these important matters—the political rights of women, slavery, and forced labor—adherence by the United States would add great moral force to the principles set forth in these conventions. It is time for the United States to assert leadership again in the field of human rights.

It should be remembered that it was under the leadership of the United States and its dedicated representative on the United Nations Commission on Human Rights, the late, beloved Mrs. Franklin D. Roosevelt, that the United Nations adopted the universal declaration of human rights. These conventions merely carry into international law—in more precise terms than the declarations of principle expressed in the declaration of human rights—precepts contained in that declaration.

The Senate should speedily give its advice and consent to all four conventions.

I ask unanimous consent that the letters transmitting these conventions to the President by Secretary of State Dean Rusk and Acting Secretary of State James E. Webb be printed in the RECORD at the conclusion of my remarks.

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

DEPARTMENT OF STATE,
Washington, D.C.

The PRESIDENT,
The White House:

I have the honor to transmit to you a certified copy of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, with the recommendation that it be submitted to the Senate for its advice and consent to ratification.

The convention defines genocide to mean certain acts, enumerated in article II, committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such. These acts are discussed below.

The basic purpose of the convention is the prevention of the destruction of a human group as such. The first resolution of the General Assembly on this subject, 96(I), adopted unanimously by the members of the United Nations on December 11, 1946, succinctly pointed out that—

"Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings."

The resolution also pointed out that genocide shocks the conscience of mankind, results in great losses to humanity and is contrary to moral law. Of course, homicide also is shocking, results in losses to humanity and is contrary to moral law. The distinction between those two crimes, therefore, is not a difference in underlying moral principles, because in the case of both crimes, moral principles are equally outraged. The distinction is that in homicide, the individual is the victim; in genocide, it is the group.

The General Assembly declared in this resolution that the physical extermination of human groups, as such, is of such grave and legitimate international concern that civilized society is justified in branding genocide as a crime under international law. The extermination of entire human groups impairs the self-preservation of civilization itself. The recent genocidal acts committed by the Nazi Government have placed heavy burdens and responsibilities on other countries, including our own. The millions of dollars spent by the United States alone on refugees, many of them victims of genocide, and the special immigration laws designed to take care of such unfortunates illustrate how genocide can deeply affect other states. On September 23, 1948, Secretary of State Marshall stated that—

"Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people and are likely to seek their objectives by coercion and force in the international field."

It is not surprising, therefore, to find the General Assembly of the United Nations unanimously declaring that genocide is a matter of international concern.

Thus, the heart of the convention is its recognition of the principle that the prevention and punishment of genocide requires international cooperation. However, the convention does not substitute international responsibility for state responsibility. It leaves to states themselves the basic obligation to protect entire human groups in their right to live. On the other hand it is designed to insure international liability where state responsibility has not been properly discharged.

The convention was carefully drafted and, indeed, represents the culmination of more than 2 years of thoughtful consideration and treatment in the United Nations, as the following important steps in its formulation demonstrate:

The initial impetus came on November 2, 1946, when the delegations of Cuba, India, and Panama requested the Secretary-General of the United Nations to include in the agenda of the General Assembly an additional item: the prevention and punishment of the crime of genocide. The Assembly referred the item to its Sixth (Legal) Committee for study.

At its 55th plenary meeting on December 11, 1946, the Assembly adopted, without debate and unanimously, a draft resolution submitted by its Legal Committee. This resolution, referred to above, affirmed that "genocide is a crime under international law." It recommended international cooperation with a view to facilitating the prevention and punishment of genocide, and, to this end, it requested the Economic and Social Council of the United Nations to undertake the necessary studies to draw up a draft convention on the crime.

Pursuant to this resolution a draft convention on genocide was prepared by the ad hoc Committee on Genocide in the spring of 1948, under the chairmanship of the U.S. representative on this committee. This draft was again discussed by the Economic and Social Council in July and August 1948 in Geneva, and then in the Legal Committee of the General Assembly at its third regular session in Paris, where again the U.S. delegation played an important role in the formulation of the draft convention.

On December 9, 1948, the General Assembly unanimously adopted the convention to outlaw genocide, which was signed by the United States 2 days later. When signing, the U.S. representative said in part:

"I am privileged to sign this convention on behalf of my Government, which has been proud to take an active part in the effort of the United Nations to bring this convention into being.

"The Government of the United States considers this an event of great importance in the development of international law and of cooperation among states for the purpose of eliminating practices offensive to all civilized mankind."

Genocide is a crime which has been perpetrated by man against man throughout history. Although man has always expressed his horror of this heinous crime, little or no action had been taken to prevent and punish it. The years immediately preceding World War II witnessed the most diabolically planned and executed series of genocidal acts ever before committed. This time there was to be more than mere condemnation. A feeling of general revulsion swept over the world, and following the war manifested itself in the General Assembly's resolution of December 1946. It is this resolution to which the legal committee gave full content by providing the General Assembly with a legal instrument designed not only to prevent genocidal acts but also to punish the guilty.

The genocide convention contains 19 articles. Of these, the first 9 are of a substantive character, and the remaining 10 are procedural in nature.

The preamble is of a general and historical nature.

Article I carries into the convention the concept, unanimously affirmed by the General Assembly in its 1946 resolution, that genocide is a crime under international law. In this article the parties undertake to prevent and to punish the crime.

Article II specifies that any of the following five acts, if accompanied by the intent to destroy, in whole or in part, a national,

ethnical, racial, or religious group, constitutes the crime of genocide:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group; and

(e) Forcibly transferring children of the group to another group.

This article, then, requires that there should be a specific intent to destroy a racial, religious, national, or ethnical group as such in whole or in part. With respect to this article the U.S. representative on the legal committee said:

"I am not aware that anyone contends that the crime of genocide and the crime of homicide are one and the same thing. If an individual is murdered by another individual, or indeed by a government official of a state, a crime of homicide has been committed and a civilized community will punish it as such. Such an act of homicide would not in itself be an international crime. To repeat the opening language of the resolution of the General Assembly of December 1946, 'genocide is a denial of the right of existence of entire human groups.' This remains the principle on which we are proceeding.

"However, if an individual is murdered by another individual, or by a group, whether composed of private citizens or government officials, as part of a plan or with the intent to destroy one of the groups enumerated in article 2, the international legal crime of genocide is committed as well as the municipal-law crime of homicide."

The destruction of a group may be caused not only by killing. Bodily mutilation or disintegration of the mind caused by the imposition of stupefying drugs may destroy a group. So may sterilization of a group, as may the dispersal of its children.

Article III of the convention specifies that five acts involving genocide shall be punishable. These five genocidal acts are—

(a) The crime of genocide itself;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide; and

(e) Complicity in genocide.

The parties agree, in article IV, to punish guilty persons, irrespective of their status.

In article V the parties undertake to enact, "in accordance with their respective constitutions", the legislation necessary to implement the provisions of the convention. The convention does not purport to require any party to enact such legislation otherwise than in accordance with the country's constitutional provisions.

Article VI makes it clear that any person charged with the commission of any of the five genocidal acts enumerated in article III shall be tried by a court of the state in whose territory the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those states accepting such jurisdiction. Thus, the commission in American territory of genocidal acts would be tried only in American courts. No international tribunal is authorized to try anyone for the crime of genocide. Should such a tribunal be established, Senate advice and consent to U.S. ratification of any agreement establishing it would be necessary before such an agreement would be binding on the United States.

By article VII the parties agree to extradite, in accordance with their laws and treaties, persons accused of committing genocidal acts; none of such acts is to be considered a political crime for the purpose of extradition. The U.S. representative on the Legal Committee, in voting in favor of the convention on December 2, 1948, said:

"With respect to article VII regarding extradition, I desire to state that until the Congress of the United States shall have enacted the necessary legislation to implement the convention, it will not be possible for the Government of the United States to surrender a person accused of a crime not already extraditable under existing laws."

Existing U.S. law provides for extradition only when there is a treaty therefor in force between the United States and the demanding government. Only after Congress has defined, and provided for the punishment of, the crime of genocide, and authorized surrender therefor, will it be possible to give effect to the provisions of article VII.

Article VIII recognizes the right of any party to call upon the organs of the United Nations for such action as may be appropriate under the charter for the prevention and suppression of any of the acts enumerated in article III. This article merely affirms the right of the United Nations to call upon an organ of the United Nations in matters within its jurisdiction.

Article IX provides that disputes between the parties relating to the interpretation, application, or fulfillment of the convention, including disputes relating to the responsibility of a state for any of the acts enumerated in article III, shall be submitted to the International Court of Justice, when any party to a dispute so requests.

On December 2, 1948, in voting in favor of the genocide convention, the representative of the United States made the following statement before the Legal Committee of the General Assembly:

"I wish that the following remarks be included in the record verbatim:

"Article IX provides that disputes between the contracting parties relating to the interpretation, application, or fulfillment of the present convention, 'including those relating to the responsibility of a state for genocide or any of the other acts enumerated in article III,' shall be submitted to the International Court of Justice. If 'responsibility of a state' is used in the traditional sense of responsibility to another state for injuries sustained by nationals of the complaining state in violation of principles of international law and similarly, if 'fulfillment' refers to disputes where interests of nationals of the complaining state are involved, these words would not appear to be objectionable. If, however, 'responsibility of a state' is not used in the traditional sense and if these words are intended to mean that a state can be held liable in damages for injury inflicted by it on its own nationals, this provision is objectionable and my Government makes a reservation with respect to such an interpretation."

In view of this statement, I recommend that the Senate give its advice and consent to ratification of the convention "with the understanding that article IX shall be understood in the traditional sense of responsibility to another State for injuries sustained by nationals of the complaining state in violation of principles of international law, and shall not be understood as meaning that a state can be held liable in damages for injuries inflicted by it on its own nationals."

The remaining articles are procedural in nature. By article XIV the convention is to be effective for an initial period of 10 years from the date it enters into force, and thereafter for successive periods of 5 years with respect to those parties which have not denounced the convention by written notification to the Secretary-General of the United Nations at least 6 months before the expiration of the current period.

Article XV provides that if there are less than 16 parties to the convention, as a result of denunciations, the convention shall cease to be in force from the effective date of the denunciation which reduces the number of parties to less than 16.

Article XVI authorizes any party to request revision of the convention, by notification in writing to the Secretary-General of the United Nations. The General Assembly shall decide upon the steps, if any, to be taken in respect of such request.

It is my firm belief that the American people together with the other peoples of the world will hail U.S. ratification of this convention as another concrete example of our repeatedly affirmed determination to make the United Nations the cornerstone of our foreign policy and a workable institution for international peace and security.

Respectfully submitted.

JAMES E. WEBB,
Acting Secretary.

(Enclosure: Certified copy of convention on the prevention and punishment of genocide.)

DEPARTMENT OF STATE,
July 18, 1963.

THE PRESIDENT,
The White House:

I have the honor to lay before the President, with a view to its transmission to the Senate for the advice and consent of that body to accession, if the President approve thereof, a certified copy of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, which was signed at Geneva on September 7, 1956, by the respective plenipotentiaries of certain governments and which entered into force on April 30, 1957, in accordance with article 13 thereof.

At the present time the following countries are parties to the convention: Albania, Australia, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, the Republic of China, Cyprus, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Federation of Malaya, Finland, Federal Republic of Germany, Ghana, Haiti, Hungary, India, Iran, Ireland, Israel, Italy, Jordan, Kuwait, Laos, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Poland, Portugal, Rumania, Sierra Leone, Sudan, Sweden, Syria, Tanganyika, Ukranian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom, and Yugoslavia.

The convention was formulated at the United Nations Conference of Plenipotentiaries convened by the Economic and Social Council by resolution adopted on April 30, 1956. The Conference met at the European Office of the United Nations in Geneva from August 13 to September 4, 1956. Fifty-one governments were represented at the Conference by plenipotentiaries and eight were represented by observers. The International Labor Organization was represented at the Conference. Twelve nongovernmental organizations in consultative relationship with the Economic and Social Council were represented with the right to submit written or oral statements. The United States was represented at the Conference but its representative did not sign the convention.

In 1945, the United Nations General Assembly requested the Economic and Social Council to study the question of slavery. A committee was appointed which met in several sessions and considered the problem. It considered that although slavery of the classical kind was lessening, there was need for further action to eliminate forms of servitude, not called slavery but leading to a similar result, which still affect large

numbers of people. Among these types of servitude are debt bondage, serfdom, the physical transfer of women without their consent, and abuses arising from adoption of children at an early age. The committee urged that these servitudes should equally be the concern of the international community and recommended that a supplementary convention be prepared and adopted covering these practices. The Council considered the committee's report and in 1953 asked the Secretary General to consult governments on the desirability of such a supplementary convention.

During the debate in October 1953 in the General Assembly's Legal Committee, when the enactment of a protocol transferring to the United Nations the functions undertaken by the League of Nations under the 1926 convention to suppress the slave trade and slavery (46 Stat. 2183; Treaty Series 778) was under discussion, the feeling was expressed by a number of governments that the 1926 convention was inadequate.

By 1955 the Economic and Social Council had before it a report of available information on slavery which contained sufficient evidence that practices akin to slavery existed in various areas of the world. Thereupon the Council established a 10-member committee to prepare a draft convention. In February 1956 the committee unanimously adopted a draft convention to supplement the 1926 slavery convention. The draft convention was considered at the United Nations Plenipotentiary Conference, was adopted on September 4, 1956, and was opened for signature on September 7, 1956.

The purpose of the convention is to supplement the 1926 slavery convention, to which the United States is a party, by dealing with conditions akin to slavery. The convention contains, in addition to the preamble, 15 articles grouped under 6 sections.

Section I, "Institutions and Practices Similar to Slavery," requires states parties to take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition of debt bondage, serfdom, involuntary marriage or transfer of women for consideration in money or in kind, transfer of widows as inherited property, and exploitation of children (art. 1). With a view to ending the abuse through involuntary marriage, States are required to prescribe, where appropriate, suitable minimum ages of marriage and to encourage facilities for consent to marriage and registration of marriages (art. 2).

Section II, "The Slave Trade," provides that the act of conveying or attempting to convey slaves from one country to another by any means of transport shall be a criminal offense under the laws of states parties to the convention (art. 3), and that any slave who takes refuge on board any vessel of a party to the convention shall ipso facto be free (art. 4).

Section III ("Slavery and Institutions and Practices Similar to Slavery") provides that the act of mutilating, branding, or marking a slave or person of servile status, in a country where the abolition or abandonment of slavery or institutions or practices mentioned in article 1 of the convention are not yet complete, shall be a criminal offense (art. 5). The act of enslaving or inducing another person into slavery or attempting these acts, or being an accessory thereto, or being a party to a conspiracy to accomplish such acts shall also be a criminal offense under the laws of states parties to the convention (art. 6).

Section IV ("Definitions") defines the meaning of the terms used in the convention (art. 7).

Section V ("Cooperation Between States Parties and Communication of Information") requires that states undertake to cooperate with each other and the United Nations to give effect to the provisions of the convention and to communicate to the Secretary General of the United Nations copies of any laws, regulations, and administrative measures enacted to put into effect and to implement the provisions thereof (art. 8).

Section VI ("Final Clauses") provides that no reservations may be made (art. 9) and that any dispute between parties relating to interpretation or application not settled by negotiation shall be referred to the International Court of Justice unless the parties agree to another mode of settlement (art. 10). Articles 11–14 state the requirements for ratification or accession, and application to non-self-governing territories (arts. 11 and 12). The convention enters into force on the date two states become parties, and subsequently enters into force with respect to each state or territory upon deposit of an instrument of ratification or accession (art. 13). The duration of the convention is divided into successive 3-year periods, beginning on the date of entry into force, and notice of denunciation by any state is to be addressed to the Secretary General not less than 6 months before the expiration of the current 3-year period, such denunciation to take effect at the expiration of that 3-year period (art. 14).

The substance of this convention lies within the Federal power and no substantial legal questions are involved, inasmuch as slavery through such practices is already forbidden in the United States under Federal and State laws. The Department of Justice and the Department of the Interior have expressed the view that the 13th amendment to the Constitution and existing Federal legislation are sufficient to meet the two objectives and requirements of the convention. In addition, laws already existing in the States and territories are regarded as satisfying the requirements of article 2 calling for prescription of minimum age and other marriage standards where appropriate.

It is hoped that the convention will be given early and favorable consideration by the Senate.

Respectfully submitted.

DEAN RUSK.

DEPARTMENT OF STATE,
July 18, 1963.

THE PRESIDENT,
The White House:

I have the honor to lay before the President, with a view to its transmission to the Senate for the advice and consent of that body to ratification, if the President approve thereof, a certified copy of the Convention Concerning the Abolition of Forced Labor (convention No. 105) adopted by the International Labor Conference at its 40th session, Geneva, June 25, 1957.

In accordance with article 4 thereof, the convention entered into force on January 17, 1959. At the present time 60 of the 108 members of the International Labor Organization, not including the United States, have deposited instruments of ratification to the convention.

There is enclosed a background statement on the development of this convention over a period of nearly 10 years.

The convention as adopted consists of a preamble and 10 articles, the substantive provisions being contained in the first 2 articles.

Article 1 provides that each ratifying member undertakes to suppress and not to make use of any form of forced or compulsory labor (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social, or economic system; (b) as a method of mobilizing and using labor for purposes of economic development; (c) as a means of labor discipline; (d) as a punishment for having participated in strikes; and (e) as a means of racial, social, national, or religious discrimination.

Article 2 provides that each ratifying member undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labor as specified in article 1.

Formal ratifications are to be communicated to the Director General of the International Labor Organization (art. 3). The convention is binding only on those members which have registered ratifications with the Director General, and the convention enters into force 12 months after the date on which the ratifications of two members have been registered (art. 4). Thereafter it enters into force for any member 12 months after the date of registration of its ratification (art. 4).

The convention may be denounced by any member a party thereto after 10 years have elapsed from the date it first enters into force, by a communication addressed to the Director General; such denunciation shall take effect 1 year from the date it is registered by the Director General (art. 5). Any party which has not, within a year following the expiration of that 10-year period, exercised the right of denunciation, will continue to be bound for another 10-year period and, thereafter, by a communication to the Director General, may denounce the convention at the expiration of any period of 10 years (art. 5).

The Director General shall notify all members of the Organization of the registration of ratifications and denunciations and of the entry into force of the convention (art. 6), and shall register the convention with the United Nations in accordance with article 102 of the United Nations Charter (art. 7).

Article 8 provides for consideration of a revision of the convention. Article 9 provides that, if the Conference adopts a new convention revising this convention in whole or in part, then, unless the new convention otherwise provides, ratification by a member of the new convention shall involve immediate denunciation of this convention notwithstanding the provisions of article 5. Article 10 states that the English and French versions of the convention are equally authoritative.

Pursuant to article 19, paragraph 7(b), of the Constitution of the International Labor Organization, the convention was transmitted to both Houses of Congress on February 9, 1959 (H. Doc. 78, 86th Cong., 1st sess.). At that time the interested departments of the Government were inclined to the view that the ban on forced labor as a punishment for having participated in strikes raised problems of a technical legal character with regard to areas of State regulation.

However, after an extensive additional review of the convention and the technical legal problems involved, the interested departments of the Government have expressed their coordinated view (see the enclosed copy of a letter dated February 15, 1963, from the Secretary of Labor) that the subject matter of convention No. 105 is wholly within the Federal competence under the 13th amendment to the Constitution of the United States, that there is neither Federal nor State power validly to impose forced labor as a punishment for a legal strike, and that, with regard to illegal strike activities, any such punishment would only come about "as punishment for crime whereof the party shall have been duly convicted." The 13th amendment to the Constitution reads in part:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted,

shall exist within the United States, or any place subject to their jurisdiction."

Accordingly, and in accordance with article 19, paragraph 7(a), of the Constitution of the International Labor Organization, the convention is submitted herewith for transmission to the Senate for advice and consent to ratification.

Respectfully submitted.

DEAN RUSK.

DEPARTMENT OF STATE,
Washington, July 18, 1963.

THE PRESIDENT,
The White House:

I have the honor to lay before the President, with a view to its transmission to the Senate for the advice and consent of that body to accession, if the President approve thereof, a certified copy of the Convention on the Political Rights of Women, opened for signature at New York on March 31, 1953. The convention has been signed in behalf of 42 countries, not including the United States of America, and entered into force July 7, 1954, in accordance with article VI thereof.

At the present time the following countries are parties to the convention: Albania, Argentina, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Central African Republic, Republic of China, Republic of Congo (Brazzaville), Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Finland, France, Greece, Guatemala, Haiti, Hungary, Iceland, India, Indonesia, Israel, Japan, Korea, Lebanon, Nicaragua, Norway, Pakistan, Philippines, Poland, Rumania, Senegal, Sierra Leone, Sweden, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, and Yugoslavia.

In 1946 the first General Assembly of the United Nations adopted a resolution calling upon countries which had not already done so to fulfill the purposes and aims of the preamble and article I of the charter by granting women the same political rights as men. It was not until 1951, however, that the Commission on the Statue of Women recommended to the Economic and Social Council a draft convention on the political rights of women. The draft text was adopted by the Council on August 27, 1951, and forwarded to the Secretary-General with the request that it be sent to member governments for comment.

Adoption of the draft convention by the General Assembly was recommended by the Economic and Social Council in 1952 and the General Assembly was requested to draft the necessary procedural articles. The Assembly, in turn, referred the draft convention to its Third Committee (Social, Humanitarian, and Cultural). The committee completed its work late in 1952 and the procedural articles of the convention were submitted to the General Assembly for approval.

The text of the draft convention was adopted by the General Assembly on December 17, 1952. By a resolution adopted on December 20, 1952, it was decided to open the convention for signature at the end of the then current session of the General Assembly.

U.S. representatives participated in all phases of the drafting, and this Government was represented on several of the committees actively and favorably urging the adoption of the draft convention. The convention, however, has not been signed in behalf of the United States.

The convention consists of the preamble and 11 articles. The substantive provisions are contained in the first three articles. These articles provide that, on equal terms with men and without discrimination, women shall be entitled to vote in all elections (art. I); they shall be eligible for election to all publicly elected bodies established by national law, art. II); and they shall be entitled to hold public office and exercise all public functions established by national law (art. III).

Article IV contains provisions regarding signature and ratification, article V provides for accession, and article VI provides that the convention shall enter into force on the 90th day following the deposit of the 6th instrument of ratification or accession. Subsequent ratifications or accessions enter into force on the 90th day after deposit by each State.

Article VII relates to reservations and provides that any reservation submitted at the time of signature, ratification, or accession will be communicated by the Secretary General to all states which are or may become parties. The convention does not enter into force as between the state making the reservation and any other state which notifies the Secretary General within 90 days from the date of such communication that it does not accept the reservation.

Article VIII provides that any state may denounce the convention by written notice to the Secretary General to take effect 1 year after the date of receipt of the notification by the Secretary General. The convention will cease to be in force when such denunciations have reduced the number of parties to less than six.

Article IX provides that disputes concerning interpretation or application of the convention between contracting parties, not settled by negotiation, shall be referred to the International Court of Justice for decision at the request of one of the parties unless they agree to another mode of settlement.

Articles X and XI provide for the performance of depositary functions by the Secretary General of the United Nations.

No substantative legal questions are involved in the United States becoming a party to this convention. Article I, relating to the right of women to vote, merely reflects the principle established by the 19th amendment to the Constitution of the United States, which provides:

"The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."

The eligibility of women to be elected and to be appointed to public office established by national law in the United States has long been recognized in law and practice. Speaking before the Third Committee of the General Assembly in December 1952, the late Mrs. Franklin D. Roosevelt said:

"As most of you know, the subject of this convention—equal suffrage for women—is very close to my heart. I believe in active citizenship, for men and women equally, as a simple matter of right and justice. I believe we will have better government in all of our countries when men and women discuss public issues together and make their decisions on the basis of their differing areas of experience and their common concern for the welfare of their families and their world.

"In the United States, and in most countries today, women have equal suffrage. Some may feel that for that reason this convention is of little importance to them. I do not agree with this view. It is true, of course, that the first objective of this convention is to encourage equal political rights for women in all countries. But its significance reaches far deeper into the real issue of whether in fact women are recognized fully in setting the policies of our governments.

"I do not expect that there will ever be as many women political leaders as men, for most women are needed in their homes while their children are small and have fewer years in which to gain public recognition. But if we are honest with ourselves, we know that all countries have a long way to go on these matters.

"This convention on political rights of women is not in itself an answer to the problems of modern government. But it points up, I believe in useful ways, how governments can expand their resources by taking full advantage of the energy and experience of their women citizens."

The phrases "public office" and "public functions" in article III have been interpreted to include a wide variety of appointive as well as elective offices. However, during discussions in the General Assembly and in the Third Committee there was general agreement that the provisions of article III do not apply to military service. When voting on the draft convention, the U.S. representative made clear the understanding of the U.S. Government that the phrase "public office" does not include military service and that the phrase "public function" is coterminous with "public office." It is recommended that in such resolution as the Senate may adopt approving the accession of the United States to the convention, the Senate indicate that such accession is subject to the understanding that in article III the phrase "public office" does not include military service and that the phrase "public function" is coterminous with "public office."

Six countries (Denmark, Finland, Guatemala, India, Pakistan, and Sierra Leone) have ratified or acceded to the convention subject to a statement or reservation with respect to article III.

It is hoped that the convention will be given early and favorable consideration by the Senate.

Respectfully submitted.

DEAN RUSK.

EXHIBIT 1

[From the New York Times, June 24, 1964]

GLOBAL CIVIL RIGHTS

The victory for the civil rights bill in Congress is further proof that, despite all obstacles, the United States is determined to do its best to abolish all kinds of discrimination and violation of human rights to give new validity to the American credo that all men are created free and equal. But the good faith of this Nation is still being impugned by the surprising and inexplicable failure of the American Government to ratify four United Nations conventions that make the battle for human rights worldwide.

These conventions, already endorsed by scores of other countries, outlaw (1) genocide, or the extermination of a race, (2) forced labor, (3) slavery, and (4) subjugation of women. They have all been signed by the American Government, the genocide convention as long ago as 1948, and all have been sent to the Senate for approval. But they remain bottled up in Senate committees because of what is characterized as "lingering Brickeritis," so called after the former Senator Bricker of Ohio, who feared that such conventions might infringe on our Constitution.

Now that the congressional battle over the domestic civil rights bill is largely won, the Johnson administration, like the Kennedy administration before it, is making new efforts to get Senate approval of the global civil rights compacts. Secretary Rusk and Assistant Secretary Cleveland have spoken out forcefully against any abdication in this field. It is time for the American people to rally to their support and compel action that is long overdue.

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, am I correct in my understanding, on the basis of the action taken by the Senate, that H.R. 10456, the NASA authorization bill, will be up for reconsideration for a period of not to exceed 1 hour?

The PRESIDING OFFICER. The Senator is correct.

DEATH OF EARLE B. MAYFIELD, FORMER U.S. SENATOR FROM TEXAS

Mr. YARBOROUGH. Mr. President, I am saddened to announce the passing, on Tuesday, June 23, of a distinguished former U.S. Senator from Texas, Earle Bradford Mayfield. He served his State and country in the U.S. Senate from March 4, 1923, to March 3, 1929.

Probably his most distinguished achievement in the Senate was the passage of the comprehensive revision of the Interstate Commerce Commission Act. The Interstate Commerce Commission Act was the work of a former U.S. Senator from Texas, John H. Reagan. Senator Mayfield was the only Senator who achieved a major revision of that act during his service in the Senate.

Senator Mayfield, my good friend, was born in Overton, in Rusk County, Tex., April 12, 1881, attended public schools in east Texas and was graduated from Southwestern University in Georgetown, Tex., in 1900. Studying law at the University of Texas at Austin, he was admitted to the bar in 1907 and served in the State senate from 1907 to 1913, where he compiled a distinguished record of public service that was to bring him even higher honor in public recognition of his great capabilities.

He became a member of the State railroad commission in 1913, continuing to grow stronger both in experience and in the hearts of his fellow Texans through these years.

His knowledge and experience as a member of the State railroad commission in Texas enabled him to render distinguished service as a member of the Interstate and Foreign Commerce Committee of the Senate, particularly in his prime field of interstate commerce.

He was named as a delegate to the State Democratic conventions from 1912 to 1948, and was elevated to the U.S. Senate in 1923. He served a full term in this body.

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. ANDERSON. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

AUTHORIZATION OF APPROPRIATIONS TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The Chair lays before the Senate a bill returned to the Senate by the House of Representatives, which will be stated.

The LEGISLATIVE CLERK. H.R. 10456, an act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and administrative operations, and for other purposes.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Is the Senate now operating under limited time?

The PRESIDING OFFICER. The Senator is correct.

The bill is open to amendment.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Is the time limited?

The PRESIDING OFFICER. The time limitation is 1 hour on the bill, including amendments.

Mr. FULBRIGHT. By whom is the time controlled?

Mr. MANSFIELD. I ask unanimous consent that the time be controlled by the distinguished chairman of the Aeronautical and Space Sciences Committee, the Senator from New Mexico [Mr. ANDERSON] and by the chairman of the Foreign Relations Committee, the Senator from Arkansas [Mr. FULBRIGHT].

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

Mr. FULBRIGHT. Mr. President, I yield myself 10 minutes.

Mr. President, I call up my amendment No. 1071, to H.R. 10456, and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

On page 1, line 5, strike out "$5,246,293,250", and insert in lieu thereof "$4,978,543,250".

On page 1, line 7, strike out "$4,354,150,000", and insert in lieu thereof "$4,086,400,000".

On page 2, line 2, strike out "$2,677,500,000", and insert in lieu thereof "$2,409,750,000".

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. FULBRIGHT. Mr. President, the purpose of this amendment is to cut $267,750,000 from the Apollo program in the Research and Development section of the bill. The basic objective of the amendments is to reevaluate the goal of trying to land a man on the moon in this decade and to proceed with this project on a more deliberate and thoughtful basis. I do not contend that we should cancel the project outright. This Nation obviously will continue to pioneer in space. I contend only that it is unwise to continue on a crash basis.

Stated in its simplest terms, the question is whether or not Congress believes it more important for this Nation to put a man on the moon and return him to earth within the decade or that we take care of some of the pressing problems on earth whose solution may make our society stronger and life for our people more meaningful. It is a question of priorities; nothing more.

Actually, any budget is a listing of priorities. The Federal budget should therefore reflect national needs as determined by the President and Congress. The Senate must determine, in considering the bill, whether reaching the moon in this decade is an enterprise so vital to the national interest as to warrant a priority call on the Treasury over such pressing public needs as education, public works, good urban transportation, eliminating poverty, building parks and playgrounds, and a host of others. I do not believe that space deserves priority over these requirements. We are being asked to approve $5.3 billion for space when bills such as those for accelerated public works, antipoverty, and mass transit are held up for economy reasons. I doubt that the thousands of my constituents living in communities all over Arkansas which were unable to get accelerated public works funds for local improvements think that putting a man on the moon before 1970 is as important as voting new Federal funds for water and sewer systems. I do not contend that reducing the space program by $267 million this year will automatically assure passage of these bills. But I do say that the climate for their passage would be improved if we had the sense to get ourselves out of the straitjacket timetable which requires pursuing the lunar landing program on a crash basis.

It would be useful at this point, I believe, to get some perspective about the size of the space program. In the first fiscal year of NASA's existence the Congress appropriated $184 million for its activities. That, plus $154 million transferred from the Department of Defense made a total of nearly $339 million. Only 5 years later the Congress appropriated $5.1 billion and is being asked to appropriate $5.3 billion for the next fiscal year—a remarkable growth rate even for a Government agency.

I ask unanimous consent to have a table prepared by the Library of Congress, at my request, printed in the RECORD following my remarks. Its personnel level has grown from 9,000 to 32,000 in this 5-year period. I doubt that this record could be equaled by any other agency under peacetime conditions.

We have been told by NASA officials that some $35 billion will be spent on space activities this decade—$20 billion of this for the manned lunar landing. To meet this announced objective, $23 billion more must be appropriated in the next 5 years—an average of $4.6 billion per year; more than is budgeted next year for all Federal programs of education, natural resource development, and housing and community development. In actuality we have a $7 billion space

budget request for next year, including funds for military space programs at $1.47 billion and smaller sums for other agencies with space interests.

NASA activities obviously have great impact on the Nation's economy. It has been estimated by NASA officials that 300,000 people will be working for lunar landing program contractors by the end of this year in addition to the 14,500 NASA employees directly involved in this project. By January 82,000 scientists and engineers, or 5.2 percent of the national total, will be working on NASA programs, according to Mr. Webb. The number of scientists and engineers on NASA contract work nearly doubled from 1963 to 1964—from 34,000 to 62,000. According to Carl Frey, executive secretary of the Engineering Manpower Commission, from 60 to 70 percent of the Nation's 900,000 engineers are tied directly or indirectly to defense and space work. One commentator has said that the significant aspect of defense and space spending is not that 10 percent of the gross national product goes for those purposes but that industries in these fields drain away so much technological competence that would ordinarily be devoted to civilian purposes. If we reduced the pace of the space program as I propose in this amendment, perhaps it might initiate changes in this distortion in the use of our scientific and technical personnel.

It has been argued that the space program, like the defense program, is such a great boon to the economy that great harm would come to many important industries and any number of communities if the pace were slowed down. Space is big business in many States, but it certainly is of little help to those areas in greatest need of an economic boost. There are few space type industries in Arkansas or in Appalachia. I ask unanimous consent to have placed in the RECORD at the end of my remarks two tables and a news article concerning the geographical distribution of NASA contracts.

Rapid, forced growth—with corresponding spending—under stimulus of an arbitrarily set deadline spawns waste in any program. In one of this size, scope, and novelty, the mistakes are naturally more numerous and more costly. Only last week the House Space Committee reported on the "substantial" management defects in the Ranger moon project for which some $252 million has already been spent.

One of the most unusual items I have come across was an article in the Wall Street Journal which related the background of a proposal to fly the upper sections of the Saturn V rocket from California to Huntsville and then on to Cape Kennedy in three 12-year-old British flying boats which would be converted at a cost of perhaps $3 million per plane. Only one has ever flown and that for only 100 hours of test time. The principal objective of the project would be to save time. If the State Department ever gave any indication of considering anything so farfetched—for foreign policy purposes—there would be an uproar in the Congress. As space programs go the amounts involved are peanuts and I do not even know if the proposal is still under consideration by NASA. I relate it only to point up the ridiculous consequences of having committed our Nation to such an inflexible goal. I ask unanimous consent to have this article included in the RECORD after my remarks.

Seventy-seven percent of NASA's contracts for the 1963 fiscal year, amounting to some $1.6 billion, were let on a cost-plus-fixed-fee basis. I understand that efforts are being made to include incentive features in new contracts, but as Dr. Seamans, the Associate Administrator, told the House Appropriations Committee earlier this year the "very large contracts so far have not lent themselves to any incentive features." It makes little impact on the program if the big contractors have no incentive for eliminating waste and improving efficiency. Under cost-plus-fixed-fee contracts, they are paid for both efficient and inefficient work.

Less than a month ago the Wall Street Journal reported that North American Aviation, NASA's Apollo contractor, was to cut 1,000 workers from its lunar landing project—last week it was announced that the number of employees to be dropped had jumped to 2,500 due to "continuing studies of changes in the program" by NASA and the company. This is commendable but it is also a sad reflection on the initial planning for the project. In any other program, certainly in foreign aid, this sort of thing would have provoked a congressional inquiry.

As an example of how this program has gotten out of hand I point to NASA's efforts in the field of education. NASA is engaged in aid to education in a big way. A total of $150 million in grants and university contract work is proposed for 1965. The committee has approved $40 million in training, facility, and research grants of the $46 million requested. NASA now is financing the education of some 2,000 students and has asked for additional funds to increase the total to 3,250, which the committee denied. It is also engaged in international education, financing this year training and research in this country of 221 foreign graduate students, scientists and technicians. In the 1963 fiscal year 139 U.S. colleges and universities received grant and contract awards from NASA and I ask unanimous consent to have printed in the RECORD the information concerning this which appears on pages 322–324 of the committee hearings. It is seldom that I find fault with any effort which provides increased Federal support for education, but, I must confess that I do not approve of the proliferation of individual agency programs in this field. We need massive increases in Federal funds for education at all levels—but under a coordinated program designed to achieve broad objectives. I find it hard to justify NASA's participation in aid to education when we have so much difficulty in getting straightforward, across-the-board aid to education through the Congress.

There have been two principal points advanced as to why the manned lunar program should not be slowed down. First, it is said that our Nation would lose great prestige if we abandoned the goal, and, second, that the program will cost more if it is stretched out. Let me discuss each of these briefly. Regardless of what our space officials say in denying a race with the Russians, we have placed ourselves in a posture where the American public and the world believe we are engaged in a race. Whether or not the Russians are trying to beat us is really not important. What is important is that we dispel the world of the idea that we are irrevocably committed to both beating the Russians there and getting there by 1970. The Russians in this situation have shown a great deal more sense than we have. Apparently they are trying to reach the moon but are not in a position of being the losers if we get there first. Khrushchev was quoted as saying during his recent visit to Denmark:

> It is unimportant who gets there first. If the Americans get there before us we can use their experience.

If, as all our space officials say, we are not racing to the moon, what is the sense of maintaining a goal which is increasingly more difficult to attain? We are out on a limb and are sawing it away with repeated statements of adherence to the 1970 goal. Mr. Webb has told the Senate Space Committee that we have only a fighting chance to reach the moon by 1970 and according to Dr. Welsh of the National Aeronautics and Space Council only a 50–50 chance of beating the Russians. When so much is made of the prestige being risked and the slim chances of success, we are inviting far greater losses of prestige if we fail than if we acted like a mature nation and admitted that we erred in setting the goal in the first place. I agree with the space scientist who was quoted as saying:

> This winning stuff, this getting there first, has lost its edge. The grandstands are emptying. Now the time has come to ask who did the most sophisticated thing. Not who went to Africa first, but who picked up the diamonds.

The policies of our Nation will have a far greater impact on the world if we sustain our space program on a more reasonable scale and divert some of the talent and money involved to solving some of the problems here on earth. The world is far more likely to be impressed by the way in which we use our resources to create a better world than by spectacular, but fleeting, achievements in space. No nation succumbed to Soviet influence as a result of the launching of sputnik and subsequent Russian space exploits.

It has been said repeatedly that the lunar program will cost more if it is stretched out. Here we enter into a no man's land of statistics. The principal point Senators should bear in mind is that the space program will continue long after we have placed a man on the moon. Our billions of expenditures for the vast facilities required for the lunar landing will not be abandoned the moment we have accomplished this goal. To say that the overhead costs will increase if we delay the lunar program has no validity when we think of our space programs as a continuing governmental

activity. It has been said on occasion that our basic objective is to build the technical competence to reach the moon and do other work in space—not to beat the Russians there. If this is the case, we obviously want a continuing competence—not a one-shot proposition.

Space officials have assured us on occasion that only $2 billion of the $20 billion for the lunar program are peculiar to the lunar landing mission—the other $18 billion would be spent on space exploration regardless of the moon goal. Under the circumstances, I find it hard to believe that the manned lunar program will increase $1 billion in cost for each year the landing is delayed. This is a 50-percent increase—according to the NASA argument—for only a 1-year delay.

We are not engaged in a fly-by-night space program and any estimate of increased costs for delays in the lunar shot must rest on the assumption that a manned lunar landing is the end of America's space effort. As a matter of fact, $26 million is authorized in this bill to use in deciding what to do after the moon landing. Dr. Welsh said recently that he expected space expenditures to increase over the years, rather than be cut back or remain static. I point out also, of perhaps more significance, that so many areas have a vital interest in space industries that Congress would have great difficulty in seriously curtailing the space effort.

In closing, I wish to stress that I am not opposed to the lunar landing program. My purpose was to try to convince Senators that the pace of the program should be reexamined in relation to long-neglected domestic needs. We must approach this question from a standpoint of our basic public philosophy. Is it more important for us to make a more adequate attack on some of the grave deficiencies of our society or put a man on the moon by 1970? I have heard nothing which indicates that the Nation's security or the welfare of any of our citizens would suffer as a result of reducing the funds for the Apollo program by $267 million. A persuasive case can be made that the prospects for passage of programs to improve the habitability of this planet may very well be improved if we abandon the forced pace of this 1970 goal and pursue the program in a more orderly manner.

I hope the Senate will adopt the amendment.

Mr. President, I ask unanimous consent that several articles and tables in connection with this statement be printed in the RECORD as a part of my remarks.

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

Budget requests and appropriations for the National Aeronautics and Space Administration, fiscal years 1959–65

Fiscal year	Budget requests		Appropriations [1]		
	Date	Amount	Date	Public law	Amount
1959	Jan. 13, 1958	[2] $106,700,000	Aug. 28, 1958	85-844	[2] $101,100,000
	Jan. 13, 1958	125,000,000	Aug. 27, 1958	85-766	80,000,000
	Jan. 19, 1959 [3]	48,354,000	May 20, 1959	86-30	3,186,300
Total		280,054,000			184,286,300
Transfer from Department of Defense.					154,619,532
Total					338,905,832
1960	Jan. 19, 1959 [4]	485,300,000	Sept. 1, 1959	86-213	500,575,000
	Jan. 18, 1960 [4]	23,000,000	Apr. 14, 1960	86-425	23,000,000
Total		508,300,000			523,575,000
1961	Jan. 18, 1960	802,000,000	July 12, 1960	86-626	915,000,000
	Feb. 8, 1960	[5] 113,000,000			
	Jan. 16, 1961 [4]	49,606,000	Mar. 31, 1961	87-14	49,000,000
Total		964,606,000			964,000,000
1962	Jan. 16, 1961	1,109,630,000	Aug. 17, 1961	87-141	1,671,750,000
	Mar. 28, 1961	125,670,000			
	May 25, 1961	549,000,000			
	Jan. 18, 1962	156,000,000	July 25, 1962	87-545	153,500,000
Total		1,940,300,000			1,825,250,000
1963	Jan. 18, 1962	3,787,276,000	Oct. 3, 1962	87-741	3,674,115,000
1964	Jan. 17, 1963	5,712,000,000	Dec. 19, 1963	88-215	5,100,000,000
	Jan. 21, 1964	141,000,000			
Total		5,853,000,000			
1965	Jan. 21, 1964	5,304,000,000			

[1] This table shows the amounts which Congress appropriated to the National Aeronautics and Space Administration. In several instances these figures do not agree with the Bureau of the Budget's figures showing new obligational authority.

[2] This money was requested for and appropriated to the National Advisory Committee for Aeronautics, the agency which was absorbed into the National Aeronautics and Space Administration on Oct. 1, 1958.

[3] $45,000,000 of this request was proposed on this date for later transmission.

[4] This is the date on which the request was proposed in the Federal budget for later transmission.

[5] Amendment increasing the budget request to $915,000,000.

Sources: Budgets of the U.S. Government for the fiscal years ending June 30, 1959–June 30, 1964. CONGRESSIONAL RECORD, vol. 104, pt. 14, p. 17769. New York Times, Mar. 29, 1961, p. 12; May 26, 1961, p. 13. U.S. Congress. House of Representatives and Senate. Committees on Appropriations. Appropriations, budget estimates, etc., statements, various years. U. S. Congress. Senate. Committee on Aeronautical and Space Sciences. NASA authorization for fiscal year 1961, report * * * on H.R. 10809, Apr. 29, 1960 (86th Cong., 2d sess., S. Rept. 1300) p. 4. ———. NASA supplemental authorization for fiscal year 1959, report * * * on S. 1096, Mar. 5, 1959 (86th Cong., 1st sess., S. Rept. 82) p. 29. U.S. statutes at large, 1958–63.

Prepared by Catherine S. Corry, analyst in astronautics and transportation, Economics Division, Legislative Reference Service, Library of Congress, June 1, 1964.

[From the Evening Star, Washington, D.C. Mar. 4, 1964]

CALIFORNIA FIRMS GET 50 PERCENT OF SPACE BUSINESS

California got 50.4 percent of the space agency's $3.2 billion procurement contracts last year, a recent Government report says.

The next closest States were Missouri, with 9 percent, and Louisiana, with 8.5 percent. No other State got as much as 5 percent of the Nation's spending for space exploration.

"I feel that these contracts follow competence in the respective fields," Representative GEORGE P. MILLER, Democrat, of California, said today in an interview. "I'm not going to discriminate against competence by saying this should be spread around."

HEADS COMMITTEE

Mr. MILLER is chairman of the House Astronautics Committee, which handles the money authorizations for the National Aeronautics and Space Administration, now running higher than $5 billion a year.

The NASA report on procurement during fiscal 1963 has attracted little notice. Filled with tables and graphs, it is a careful compilation of NASA's procurement practices from several different standpoints.

Missouri rates high in the distribution of NASA treasure because St. Louis is the home of McDonnell Aircraft, which made the Mercury capsules and now is engaged on the Gemini two-man spacecraft.

LOUISIANA MOVES UP

Louisiana has moved up because of the huge Michoud plant not far from New Orleans, where the massive rockets of the future will be fabricated.

Somewhat surprisingly, in view of its tremendous electronics industry complex near Boston, Massachusetts accounted for only 2 percent of the NASA contracts.

However, a House committee recently gave approval for a new $50 million NASA electronics research center to be located near Boston. But funds have not yet been appropriated.

The report said 49 States had contracts of $25,000 or more in fiscal 1963, and 31 States had more than $1 million. Eight States received awards of more than $50 million.

NASA said subcontracting by the prime contractors spread the geographic distribution more.

U.S. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, ANNUAL PROCUREMENT REPORT, FISCAL YEAR 1963

IX. GEOGRAPHICAL DISTRIBUTION OF NASA PROCUREMENTS

A. Prime contract awards

1. Fiscal year 1963: Forty-nine States participated in NASA's direct awards of $25,000 and over in fiscal year 1963. Of the 49 States, 31 States received awards of more than $1 million. Eight States received awards of more than $50 million.

The 10 States receiving the largest share are listed below. The large proportion placed in California reflects the heavy concentration in that State of firms in the aerospace and electronic industries.

State	Amount (millions)	Percent of total
Total	$2,181	100
California	1,099	50
Missouri	197	9
Louisiana	185	8
New York	98	5
Alabama	97	4
Florida	92	4
New Jersey	56	3
Texas	55	3
Maryland	47	2
Massachusetts	43	2
Other	212	10

Of the 49 States that received direct awards of $25,000 and over, 45 participated in awards to business firms, 46 in awards to educational institutions and 20 in awards to other nonprofit research institutions.

The categorization of NASA procurements by State is based on the location where the items are to be produced or supplied from stock; where the services will be performed; or with respect to construction contracts, the construction site.

U.S. geographical distribution of NASA procurement direct awards of $25,000 and over,[1] fiscal year 1963

[Thousands of dollars]

State	Total		Business		Educational institutions		Other nonprofit	
	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total	Amount	Percent of total
Total	$2,181,405	100.0	$2,085,639	100.0	$79,639	100.0	$16,127	100.0
Alabama	97,068	4.4	95,097	4.6	1,826	2.3	145	.9
Alaska	2,057	.1	816	(2)	1,241	1.6		
Arizona	6,291	.3	4,742	.2	1,549	1.9		
Arkansas	322	(2)	105	(2)	217	.3		
California	1,098,486	50.4	1,085,517	52.0	10,218	12.8	2,751	17.0
Colorado	7,094	.3	6,119	.3	825	1.0	150	.9
Connecticut	9,015	.4	7,649	.4	1,366	1.7		
Delaware	204	(2)	56	(2)	148	.2		
Florida	92,393	4.2	91,148	4.4	1,164	1.5	81	.5
Georgia	6,025	.3	5,603	.3	349	.4	73	.5
Hawaii	124	(2)	29	(2)	95	.1		
Idaho	1,791	.1	1,791	.1				
Illinois	14,837	.7	8,469	.4	4,842	6.1	1,526	9.5
Indiana	2,921	.1	2,014	.1	831	1.0	76	.5
Iowa	2,548	.1	907	(2)	1,641	2.1		
Kansas	898	(2)	224	(2)	674	.8		
Kentucky	82	(2)	32	(2)	50	.1		
Louisiana	185,263	8.5	184,852	8.9	411	.5		
Maine	192	(2)			192	.2		
Maryland	47,185	2.2	45,167	2.2	2,018	2.5		
Massachusetts	43,463	2.0	22,320	1.1	17,893	22.4	3,250	20.2
Michigan	9,088	.4	3,710	.2	5,072	6.4	306	1.9
Minnesota	8,583	.4	5,760	.3	2,670	3.4	153	.9
Mississippi	86	(2)	45	(2)			41	.3
Missouri	197,104	9.0	195,372	9.4	901	1.1	831	5.2
Montana	70	(2)			70	.1		
Nevada	484	(2)	443	(2)	41	.1		
New Hampshire	585	(2)	425	(2)	160	.2		
New Jersey	55,889	2.6	53,014	2.5	2,875	3.6		
New Mexico	2,916	.1	906	(2)	1,766	2.2	244	1.5
New York	97,471	4.5	88,490	4.2	6,361	8.0	2,620	16.2
North Carolina	1,000	(2)	416	(2)	526	.7	58	.4
Ohio	32,268	1.5	30,330	1.5	1,160	1.5	778	4.8
Oklahoma	1,087	.1	371	(2)	716	.9		
Oregon	575	(2)	426	(2)	149	.2		
Pennsylvania	30,489	1.4	27,812	1.3	2,380	3.0	297	1.8
Rhode Island	356	(2)	235	(2)	71	.1	50	.3
South Carolina	76	(2)			76	.1		
South Dakota	407	(2)			407	.5		
Tennessee	2,301	.1	1,804	.1	497	.6		
Texas	54,772	2.5	51,344	2.5	2,620	3.3	808	5.0
Utah	534	(2)	336	(2)	198	.2		
Vermont	128	(2)	79	(2)	49	.1		
Virginia	23,961	1.1	23,325	1.1	636	.8		
Washington	2,516	.1	2,339	.1	177	.2		
West Virginia	538	(2)	395	(2)	143	.2		
Wisconsin	12,683	.6	11,363	.5	1,320	1.7		
Wyoming	38	(2)	38	(2)				
District of Columbia	27,141	1.2	24,204	1.2	1,048	1.3	1,889	11.7

[1] Excludes awards placed with or through other Government agencies, awards outside the United States, and actions on the JPL contract.

[2] Less than 0.05 percent.

B. Subcontract awards

The data shown are based on awards to prime contractors only. Consequently, the widespread geographical distribution of work to subcontractors is not reflected.

In August 1962, NASA instituted a subcontracting reporting program the primary purpose of which is to obtain further information on the geographical distribution of NASA's procurement dollars. Under this program 12 of NASA's major prime contractors report first-tier subcontracts in excess of $10,000 on each of their prime contracts in excess of $500,000. Each of the first-tier subcontractors awarded an NASA subcontract in excess of $50,000, reports second-tier subcontracts in excess of $10,000. The reporting is accomplished by the contractors submitting a postcard form to NASA at the time of the subcontract award.

As of June 30, 1963, the reported subcontracts had totaled $682 million and had effected a significant redistribution of NASA's prime contract dollars. The subcontract dollars represented 4,387 actions of $10,000 or more placed with 1,284 different subcontractors by the 12 prime contractors.

The chart shows the geographical distribution of the subcontracting. Column (b) shows the $682 million of subcontract dollars distributed among the States in which the applicable prime contracts are being performed. Column (d) shows where the dollars were distributed through first- and second-tier subcontracting.

Analysis of the data shows that the subcontracting had also effected a significant geographical redistribution of the prime contract dollars. The subcontracts originated in 8 States. They are being performed in 40 States. As will be noted from the following table, more than one-third (37 percent) of the dollars was awarded to States other than the originating eight. Twenty-four percent was awarded outside the originating State to one or more of the other originating States. Thus a total of 61 percent of the subcontract dollars had crossed State lines.

	Millions	Percent of total
Total subcontract awards	$682.2	100
Subcontracted outside originating State	413.5	61
To other than 8 originating States	253.5	37
To other originating States	160.0	24
Subcontracting within originating State	268.7	39

Geographical distribution of NASA 1st- and 2d-tier subcontracts awarded by 12 of NASA's major prime contractors and their 1st-tier subcontractors, Jan. 1, 1962, to June 30, 1963 [1]

State	Distribution based on principal place of performance of prime contracts		Distribution after 1st- and 2d-tier subcontracting State total	
	Amount [2]	Percent of total	Amount [3]	Percent of total
(a)	(b)	(c)	(d)	(e)
Alabama	$1,859,076	0.3	$888,346	0.1
Arizona			10,670,794	1.6
Arkansas			171,558	(4)
California	417,383,676	61.2	305,014,972	44.7
Colorado			4,526,835	.7
Connecticut	73,043	(4)	26,175,909	3.8
Florida	5,018,909	0.7	37,286,028	5.5
Georgia			174,593	(4)
Illinois			9,367,643	1.4
Indiana			1,778,852	.3
Iowa			18,335,666	2.7
Kansas			642,439	.1
Louisiana	15,486,002	2.3	6,429,028	.9
Maine			156,018	(4)
Maryland			21,677,456	3.2
Massachusetts			32,593,623	4.8
Michigan			8,232,572	1.2
Minnesota			41,429,746	6.1
Mississippi			45,311	(4)
Missouri	208,593,135	30.6	2,931,719	.4
Nevada			1,203,426	.2
New Hampshire			$117,854	(4)
New Jersey			10,029,794	1.5
New Mexico			36,326	(4)
New York	$28,973,022	4.2	72,179,129	10.6
North Carolina			575,680	.1
Ohio			10,188,022	1.5
Oklahoma			1,470,688	.2
Oregon			641,472	.1
Pennsylvania			47,437,736	7.0
Rhode Island			385,614	.1
South Carolina			11,328	(4)
Tennessee			559,474	.1
Texas	4,871,907	.7	4,390,063	.6
Utah			1,124,455	.2
Vermont			66,214	(4)
Virginia			224,170	(4)
Washington			369,665	.1
West Virginia			647,026	.1
Wisconsin			2,071,516	.3
Total	682,258,770	100.0	682,258,770	100.0

[1] Reporting program was established August 1962. Retroactive reporting to Jan. 1, 1962, was on a voluntary basis and such reporting is not necessarily complete. This is particularly true with respect to reports on 2d-tier subcontracts.

[2] This column shows the dollar value of the subcontracts distributed according to the principal place of performance of the applicable prime contracts.

[3] This column shows the net distribution of the 1st- and 2d-tier subcontracts according to the principal place of performance of the subcontracts.

[4] Less than 0.05 percent.

Sixteen States, other than the eight States awarded the prime contracts, had received subcontracts of $1 million or more. These, in order of magnitude, were:

Pennsylvania	$47,437,736
Minnesota	41,429,746
Massachusetts	32,593,623
Maryland	21,677,456
Iowa	18,335,666
Arizona	10,670,794
Ohio	10,188,022
New Jersey	10,029,794
Illinois	9,367,643
Michigan	8,232,572
Colorado	4,526,845
Wisconsin	2,071,516
Indiana	1,778,852
Oklahoma	1,470,688
Nevada	1,203,426
Utah	1,124,455

Of the 1,284 different subcontractors, 926 or 72 percent are small business firms. They were awarded $105 million or 15.4 percent of the reported subcontract dollars. These data do not, however, provide a complete picture of the participation of small business firms in the subcontracting (the reports from the small business subcontracting program indicate that about 40 percent of subcontracts are awarded to small business). The difference in the data obtained from the two reporting systems is probably due to the fact that the data reported by the 12 firms shown include only first- and second-tier subcontracts of $10,000 or more, and with respect to second-tier subcontracts, only those awarded during the last 10 months of the 18 months period covered by the data. It is in the lower value and lower tier subcontracts that small business participates to the greatest extent. For example, 53 percent of the second-tier subcontract dollars went to small business. The impact of second-tier subcontracting will become more evident as the reporting system covers a longer period of time.

The $682 million of reported subcontracts represents approximately 30 percent of the total awards by NASA on the applicable prime contracts. This is probably considerably less than the total subcontracting on these prime contracts since subcontracting on some was virtually complete at the inception of the subcontracting reporting program, and on some new contracts, subcontracting had just begun.

[From the Washington Evening Star, Feb. 7, 1964]

MOON PROJECT INVOLVES UP TO 300,000 JOBS

(By William Hines)

The United States will have 300,000 persons at work on the moon program when Project Apollo reaches its peak next year, Congress was told today.

Of these, more than 45,000 will be professionals with scientific and engineering degrees.

The report was made to the House Space Committee by Dr. George Mueller, head of the moon program in the National Aeronautics and Space Administration.

Dr. Mueller was testifying on the agency's $3,012 million manned space flight request for fiscal 1965.

The moon effort has grown, Dr. Mueller said, until today "between 200,000 and 250,000 persons are working on it. About 15,000 of these are NASA employees and the remainder are workers in industry. The number will increase over the next year and a half and will peak at the end of fiscal 1965."

TARGET DATE STILL 1969

NASA is past the high point of expenditures for facilities, such as the moon port at Cape Kennedy, Fla., and the Pearl River rocket testing area in Mississippi, Dr. Mueller told the committee.

The physical plant for Project Apollo at NASA is worth about $2 billion, with "a comparable amount" of money in facilities used by industry.

This is "a year of transition from design to hardware," Dr. Mueller said. He added that the present pace of the moon program is still pointed toward a manned moon landing before the end of 1969.

On Tuesday, NASA Administrator James E. Webb indicated the landing date had slipped into 1970, but yesterday Dr. Robert C. Seamans, General Manager of the agency, insisted that 1969 was still the hoped-for date.

COST STUDY CITED

A study made in his office, Dr. Mueller said, shows that a "stretchout of the present Apollo program from late 1969 to 1972 would cost about $3 billion without adding anything to the program." Apollo currently embraces 15 flight vehicles based on the Saturn V superbooster and is currently estimated to cost $20 billion.

Dr. Mueller's space flight office is budgeted to receive about 70 percent of the $4,382 million allocated for NASA research and development in fiscal 1965. The agency's total budget, including construction and operating costs, is $5,304 million.

Appearing before the committee with Dr. Mueller were Dr. Homer E. Newell, head of NASA's Office of Space Sciences and Applications, and Dr. Raymond Bisplinghoff, head of the Office of Advanced Research and Technology.

[From the CONGRESSIONAL RECORD, Apr. 22, 1964]

CALIFORNIA FIRM HOPES TO HAUL MOON ROCKET IN HUGE BRITISH PLANE—FLIGHTS FROM PLANTS TO LAUNCH PAD WOULD SAVE WEEKS OVER SEA TRIP, MIGHT AVOID RISKS

(By Robert E. Dallos)

LONDON.—When the upper two stages of America's giant Saturn moon rocket first become airborne, they may be inside a vintage British airplane that's had its own troubles getting off the ground.

A Van Nuys, Calif., firm, Aero Spacelines, Inc., proposes to convert three 12-year-old British flying boats into what it claims would be the biggest cargo carriers aloft. If the National Aeronautics and Space Administration (NASA) approves the plan, the company would fly the huge upper two stages of the Saturn V rocket from California to Huntsville, Ala., where they would be assembled for tests with the first stage, built in Mississippi. Afterward, the upper stages would be flown to Cape Kennedy while the even larger first stage would go by barge.

No plane now flying is big enough to carry the upper sections of the Saturn V, the rocket being developed to power the first manned U.S. moonship, Project Apollo. The upper stages are being built by North American Aviation, Inc., and Douglas Aircraft Co. They're too big to clear railroad tunnels, bridges, and adjoining tracks so, unless some means is found to fly them, the upper stages will have to be transported by sea via the Panama Canal.

Two of the British flying boats have never flown and the third has a mere 100 hours of test time in the air. Dubbed the Princess Flying Boats, the planes cost the British Government about $30 million in 1952. But they proved too costly and underpowered for either civilian or military use and they were put in mothballs.

NEW LEASE ON LIFE

Their new lease on life came recently when Cargo Sales, Ltd., a firm registered in the Bahamas, bought them from the British Government. Cargo Sales, in turn, granted options on the planes to Aero Spacelines. Terms weren't disclosed but conversion costs alone may total $3 million per plane.

To avoid the power problems of the craft, Aero Spacelines plans to replace the present 10 conventional propeller engines with 8 jets. To accommodate the rocket sections, it would install a much broader fuselage on the existing airframe, extending it to a 40-foot diameter. The plane also would be converted to a land-based craft. The conversion might take 20 months, enabling the planes to be ready well before the moon shot, hopefully set for before 1970.

The finished plane, resembling a winged whale, would dwarf most present aircraft. The biggest U.S. transport now, Boeing's jet cargoliner, lifts an 80,000-pound payload. The proposed rocket transport would lift 200,000 pounds and its gross weight would be 450,000 pounds, or one-third more than the Boeing jet. The pilot would sit nearly 60 feet off the ground, or as high as a 6-story building.

Aero Spacelines claims its big airplane, cruising at 350 miles an hour, could deliver the rocket sections in 8 hours or so, compared to 4 or 5 weeks by boat, and at the same cost. "We figure we could save 300 days' time transporting hardware in the Apollo program alone," claims J. H. Overholser, chairman. He adds that air shipment would eliminate potential damage from such sea hazards as salt spray, humidity, violent pitching, and the like. And if a section has to be returned to the factory for reworking, it can be done by air in a single day.

NASA WILL GET PROPOSAL

Preliminary engineering studies and wind tunnel tests have been completed on the proposed converted airplane. The results, according to the company, are "more than satisfactory." Engineering evaluation is continuing and a proposal is being drafted to submit to NASA. The space agency, of course, can't commit itself on the idea until a proposal is submitted.

NASA already pays Aero Spacelines about $100,000 monthly to fly smaller Saturn rocket components to Cape Kennedy. For this job, the company uses specially enlarged versions of the Boeing Stratocruiser, a propeller-driven plane. Its swollen fuselage has earned it the nickname, "Pregnant Guppy." It's 20 feet in diameter, or about half the size of the proposed Princess rocket carrier.

[From Senate committee hearings]

NASA AUTHORIZATIONS FOR FISCAL YEAR 1965

NASA obligations under grants and contracts to a total of 139 American colleges and universities during fiscal year 1963 were as follows:

"Big 20"	[1] $37,645,413
All others (total 119)	36,003,144
Total (139 schools)	73,638,557

[1] Does not include $14,189,669 to MIT for development of the Apollo guidance system.

The "Big 20" American colleges and universities have been identified from 100 listed on page 50 of the report "The Federal Government and Education," presented by Mrs. GREEN of Oregon, House Document 159, 88th Congress, 1st session, as those 20 institutions receiving the largest Federal expenditures for research in fiscal year 1962. The amount of money that these 20 institutions received in NASA grant and contract awards during fiscal year 1963 is shown in table 1. Table 2 lists, in alphabetical order, the other 119 institutions receiving grant and contract awards from NASA for fiscal year 1963. The last column in each table shows the rank order, from 1 to 139, of each institution based on the amount of the NASA award. These two tables show that while much of NASA's support is going to the larger schools, that a substantial amount is also going to the smaller schools and, in fact, that NASA is trying to encourage participation in the space program wherever competence and interest can be found.

TABLE 1.—*NASA grant and contract awards to the "Big 20" American colleges and universities for fiscal year 1963*

"Big 20" in rank order from p. 50, H. Doc. 159, 88th Cong., 1st sess.	Amount of NASA award	Rank order of 139 NASA awards	"Big 20" in rank order from p. 50, H. Doc. 159, 88th Cong., 1st sess.	Amount of NASA award	Rank order of 139 NASA awards
*University of California (total complex)	$7,811,377	1	*University of Pennsylvania	$625,280	26
*Massachusetts Institute of Technology	3,008,991	5	*New York University	636,788	24
*Columbia University	1,397,075	14	*Ohio State University	359,625	41
*University of Michigan	5,030,775	2	*University of Washington (Seattle)	184,830	66
Harvard University	1,045,674	21	*Johns Hopkins University	318,998	47
*University of Illinois	594,233	29	*University of Texas	474,911	35
*Stanford University	2,224,884	10	*Yale University	1,247,603	19
*University of Chicago	4,192,792	3	*Princeton University	3,709,306	4
*University of Minnesota	2,618,986	6	Iowa State University	215,135	59
*Cornell University	618,425	27			
*University of Wisconsin	1,319,725	16	Total	37,635,413	

*Indicates the 19 schools out of 20, referred to by Mr. Webb on p. 287, that received training grants in fiscal year 1964.

TABLE 2.—*Alphabetical list of 119 other American colleges and universities receiving NASA grant and contract awards during fiscal year 1963*

	Amount of NASA award	Rank order of 139 NASA awards		Amount of NASA award	Rank order of 139 NASA awards
*University of Alabama	$1,383,742	15	*University of Colorado	$1,086,162	20
Alabama A. & M	2,225	139	*Connecticut	133,290	84
University of Alaska	1,273,959	18	Dartmouth	90,000	92
Alfred	32,125	116	*Delaware	147,300	77
*Arizona State	110,795	87	*Denver	311,301	48
*University of Arizona	1,308,824	17	Drexel	53,292	104
*Arkansas	194,945	65	*Duke	212,243	61
Aroostook State Teachers College	26,000	120	Farmington State Teachers College	40,000	111
*Auburn	554,492	30	*Florida State	745,233	23
Baylor	336,329	45	*University of Florida	366,338	40
Boston University	14,500	128	Fordham	109,203	89
Brandeis	110,033	88	Fort Kent State Teachers College	10,010	131
Brown	33,193	115	Georgetown	265,014	54
*Brooklyn Polytechnic Institute	373.710	39	*George Washington	505,240	32
*California Institute of Technology	1,813,842	11	*Georgia Institute of Technology	488,473	34
*Carnegie Institute of Technology	214,500	60	Gorham State Teachers College	42,750	109
*Case Institute of Technology	599,070	28	Hampton Institute	16,062	127
*Catholic University	303,651	49	Haverford College	11,184	130
*Cincinnati	141,100	82	University of Hawaii	118,440	86
City College of New York	21,824	126	Hebron Academy	4,000	137
*Clemson	75,600	98	Hollins College	24,035	124
*Colorado State	195,604	64	University of Houston	232,084	56

TABLE 2.—*Alphabetical list of 119 other American colleges and universities receiving NASA grant and contract awards during fiscal year 1963*—Continued

	Amount of NASA award	Rank order of 139 NASA awards
*Illinois Institute of Technology	$227,239	57
*Indiana	293,100	51
*State University of Iowa	1,485,677	13
University of Kansas City	41,087	110
*Kansas State	246,085	55
*University of Kansas	429,950	37
*Kent State	25,500	121
Kentucky	81,445	95
*Lehigh	198,300	63
Long Beach State College	5,500	135
*Louisiana State	131,500	85
Maine	61,250	102
Maryland	1,700,187	12
University of Miami	91,897	91
*Michigan State	144,000	78
Mississippi State	30,643	117
University of South Mississippi	9,714	133
Missouri School of Mines and Metallurgy	76,400	97
*University of Missouri	152,900	75
Montana State College	70,000	100
University of Nebraska	2,750	138
*University of Nevada	51,076	105
New Hampshire	79,639	96
New Mexico State	2,345,460	8
*University of New Mexico	207,832	62
*North Carolina State	182,000	67
*University of North Carolina	155,620	73
*Northeastern University	89,106	93
Northeast Louisiana State College	12,374	129
*Northwestern	293,416	50
*Notre Dame	174,370	71
Ohio University	10,000	132
Oklahoma City University	141,450	81
*Oklahoma State	416,849	38
*University of Oklahoma	177,000	68
*Oregon State	149,400	76
*Penn State	464,485	36
*Pittsburgh	2,305,000	9
University of Puerto Rico	5,450	136
*Purdue University	$353,200	43
*Rensselaer	2,581,030	7
*Rhode Island	70,800	99
*Rice	842,000	22
*Rochester	631,467	25
Rutgers	50,181	106
Seton Hall	27,423	119
*Southern California	536,470	31
University of South Florida	34,564	114
*Stevens Institute of Technology	157,407	72
*St. Louis University	140,400	83
*Syracuse	320,786	46
Temple	63,002	101
*Tennessee	217,425	58
*Texas A. & M	351,789	44
*Texas Technological College	101,600	90
Texas Christian	44,351	108
Texas Southern	38,000	112
Texas Women's University	88,786	94
Texas Western	176,400	70
*Tulane	279,375	53
*University of Utah	153,340	74
*Utah State	56,000	103
*Vanderbilt	287,475	52
*University of Vermont	48,700	107
*Virginia Polytechnic Institute	177,000	69
*University of Virginia	358,305	42
Washington State Teachers College (Maine)	25,000	122
*Washington University at St. Louis	490,800	33
Wayne State	27,875	118
*Western Reserve	141,600	80
Western State College of Colorado	35,000	113
*West Virginia	143,100	79
William and Mary	25,000	123
Xavier	7,000	134
Yeshiva	23,125	125
Total	36,003,144	

*Indicates the 69 schools, referred to on pp. 287 and 322, that received training grants for fiscal year 1964.

[From the Wall Street Journal, May 22, 1964]

CUT OF 1,000 WORKERS FOR APOLLO CONTRACTOR ANNOUNCED BY NASA—AGENCY SAYS REDUCTIONS AT UNIT OF NORTH AMERICAN AVIATION NOT LINKED TO CURRENT BUDGET TALKS

WASHINGTON.—The Federal space agency said the major contractor on Project Apollo—North American Aviation, Inc.'s Space and Information Systems Division, Downey, Calif.—soon will reduce program personnel by about 1,000.

A spokesman for North American Aviation said the company plans to reduce the work force on its Apollo project, but "we don't know yet how many people will be affected." He said there is a total 31,000-man work force in the company's Space and Information Systems division.

"We are reaching a point in the Apollo program where we are passing a phase that naturally calls for reducing employment," he added.

A spokesman for the National Aeronautics and Space Administration said the cuts aren't related to the current budget deliberations in Congress, but are the result of continuing progress in the Apollo development program.

The spokesman emphasized that the cuts in no way indicate a reduction in the pace of the project to land astronauts on the moon in this decade. Nor does it indicate any change in scheduling, he said. "We are merely trying to keep costs down as much as we can," he added.

North American's Downey plant has a $934.4 million program, extending through June 30, 1965, to develop and produce 11 reusable flight versions of the Apollo command and service modules or compartments, 15 boilerplate or dummy versions for testing, and 10 mockups or ground-based models.

[From the Wall Street Journal, June 18, 1964]

NORTH AMERICAN AVIATION IS LAYING OFF 2,500 FROM LUNAR PROGRAM

LOS ANGELES.—North American Aviation, Inc., said its Space and Information Division, Downey, Calif., will have laid off about 2,500 Project Apollo personnel by July 1 since May 21. The division is the major contractor on the Apollo lunar expedition program.

An earlier estimate by the National Aeronautics and Space Administration put the reduction at 1,000 due to completion of certain phases of the project. A North American spokesman said the increased number resulted from continuing studies of changes in the program by NASA and the company. He added that the cuts don't signal any change in the program's schedule for putting a man on the moon by 1970.

The company said all types of personnel are affected. After July 1, the division will have about 30,000 employees, "and it will level off at this figure for the rest of the year," a spokesman said.

North American said that of the employees to be laid off, about 1,000 are engineering and administrative personnel, 350 are technicians and statisticians and about 1,150 are support personnel such as janitors, clerks and secretaries. A spokesman said personnel officials were trying to place employees in jobs elsewhere, but he couldn't estimate at this time how many would be relocated.

Mr. FULBRIGHT. Mr. President, when one reads the report of the committee and observes the vast amount of money proposed to be spent for various programs, it is almost incomprehensible.

The amount is so vast and the terminology, even, is so new that most Senators are naturally reluctant to challenge the program as submitted to the Senate.

We see on page 4 of the report that for the Gemini program $308,400,000 is proposed and that for the Apollo program $2,677,500,000 is proposed—a total of close to $3 billion. That is as much as was appropriated last year for the entire foreign aid program, including military assistance—in other words, one of the major aspects of our effort to keep peace in the world.

The space program is one which promises no significant and immediate benefit that I can see to the solving of problems here on earth. I am willing to concede that we should pursue a space program for scientific purposes, but what I am trying to emphasize, as I did last fall, is that a crash program for putting a man on the moon by 1970 is not justified.

There came to my desk recently a book entitled "The Moon-Doggle," written by Prof. Amitai Etzioni, of Columbia University. I have not had an opportunity to read the entire book, but I ask unanimous consent that the introduction, which consists of only six pages can be printed at this point in the RECORD.

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

"THE MOON-DOGGLE"—INTRODUCTION

The American people will never consent to live with a Red ocean. That was Washington's first reaction to the news that, on an otherwise uneventful Friday afternoon, a Soviet trawler lowered a bathysphere 45,000 feet into the Atlantic Ocean, 7,000 feet deeper

than an American had ever descended. Khrushchev proudly announced the new "victory of the science and technology of the Soviet people," predicting that the Russian divers would penetrate as much as 50,000 feet into the unexplored reaches of the ocean by 1970.

While Washington maintained, on the surface, a calm attitude, actually both the Pentagon and the Congress were in an uproar. The Navy immediately pointed out that whoever controls the bottom of the ocean will be the victor in any submarine warfare; ability to reach a greater depth, said the Navy, was equivalent to flying higher in an air battle. The military editor of the Tribune suggested that control of the deep seas would allow the Russians to launch a sneak attack on the United States. The Senate Committee on Un-Prestigious Activities launched around-the-clock hearings on the U.S. submerged efforts and the implications of the new Soviet breakthrough for the U.S. image abroad. Several scientists testified to the urgent need to train more American divers and oceanographers and to increase, in general, Federal aid to basic research. The introduction of diving classes in high schools was also proclaimed vital to "our survival and freedom."

The Navy, whose share of the national defense budget had been declining as the Air Force's share soared, floated several proposals that would allow the United States to catch up with, if not overtake, the Russians at the bottom of the ocean by 1970. The estimated cost was $20 billion. Several Senators were visited by representatives of the idle aircraft carrier industry, who pointed out that new carriers were needed to transport the divers and their equipment and that the construction of these carriers would reduce unemployment in the Senators' respective States. Finally, a White House statement declared that "We go into the ocean because whatever mankind undertakes, free men must fully share," and "in a very real sense, it will not be just one man going to the bottom of the ocean * * * it will be an entire nation. For all of us must work to put him there."

Not long after this statement was issued, intelligence reports indicated that the Russians had built a gigantic earthmoving machine working underground like a monster mole that swallowed the earth in front of it and deposited it behind, thus permitting large troop movements to be concealed from an opponent's eye and fire. The Army, and its friends in Congress, hoped that now its chance at the budget had come.

If all this seems quite believable, it is no wonder; it has happened. Not at the bottom of the ocean or underground—yet—but in outer space.

By the end of the fifties, after years of slow motion, America almost came to a standstill. Domestic problems piled up. Economic growth was pitifully slow, unemployment annoyingly high and persistent; civil rights were promised but only token measures were achieved; and the richest nation in the world was operating a subsistence school system. On the foreign front, American prestige was slipping, and the danger of nuclear war loomed larger. Increasingly friends wondered and foes hoped that America had lost the ability to adapt itself to a changing world and to meet new challenges creatively. The election campaign of 1960 highlighted the weaknesses, both internal and external, arising from the deadlock in which American society found itself. The Democrats' central slogan was, Let's get America moving again.

Then came the New Frontier. At first Congress blocked most of the legislation advocated by the new administration as essential for progress at home. Abroad, the new administration antagonized both the left and and the right by the Bay of Pigs fiasco; the left because of the invasion attempt, the right because of its failure.

At last, however, an answer was found, a way discovered to get the country moving again. We would race to the moon. The space sprint would propel America forward on all fronts: it would win prestige to compensate for Soviet space spectaculars; it would create work for the unemployed; it would spur the economy into a higher level of activity; and it would give new incentive and impetus to scientific investigation.

But the space race, we will show, is not a propellent but a drag. Far from stimulating forward movement on any of these fronts, it further aggravates the problems both at home and abroad, and it is strengthening the forces that block America from moving ahead.

The moon race proved to be a monumental misdecision. It is, therefore, of double interest: as a decision that in itself must be reversed; and as a source of more general insights into American society. Like an X-ray picture, the space race reveals the inner nature of our problems and the real reasons for our difficulties in handling them. It is a symptom of an illness that, unfortunately, runs much deeper.

It is treated as such a symptom throughout this volume, but the magnitude of the misdecision itself should not be underestimated. The projected weekend visit of three Americans to the moon and their safe return to earth is the most ambitious and costly single project ever undertaken by the United States in peacetime. The costs of manned flight to the moon are estimated to run at least as high as $20 billion.[1]

If past experience is any teacher, the actual cost will probably be even higher. Most space projects are not only far behind schedule, but already have cost much more than originally estimated—or at least reported to Congress and the public. For instance, the cost of the tracking range of Project Mercury was initially estimated as $27 million but it actually cost over $40 million. The whole project was to cost $250 million but will end up costing at least twice as much. Project Vanguard is first in the budget race, with a total cost of four times its original estimate. Dr. Warren Weaver, former president of the American Association for the Advancement of Science, put the price tag on the manned flight to the moon (first visit) not at $20 billion, but $30 billion.

Since most people cannot even imagine how much money this is, Dr. Weaver found it useful to illustrate the order of magnitude by listing what could be accomplished with the same money. According to Weaver, it could: (1) Give every teacher in the United States a 10-percent raise each year for 10 years; (2) endow 200 colleges with $10 million each; (3) finance the education of of 50,000 scientists through college and graduate school at $4,000 per year; (4) build 10 new medical schools at $200 million each; (5) build and endow complete universities for the 53 countries added to the United Nations since its establishment; (6) create 3 new Rockefeller Foundations worth $500 million each.

These figures cover only the manned flight to the moon. But it is hardly news that there is much more to the space race than the moon. Large investments have been made for orbiting various satellites, space balloons, and space stations. And, although the idea of planet hopping is somewhat less popular now than it was at the peak of the space rush, plans are still made and funds allotted to prepare for trips to Venus and Mars, originally slated for the early or mid-seventies, now expected by most experts in the 1980's. If the moon race is continued, the loser might be under pressure to try to visit some other planet first. NASA is working on intercelestial trips as much as 40 years in the future. In addition to this civilian expenditure, the Air Force has increased its space budget to $1.6 billion in 1964, not counting missiles, and is full of plans for space interceptors, space spies, space command posts, and other space goodies.

As space budgets grow like Jack's beanstalk, the more conservative estimates, only a few years old, are already inadequate. Seventeen and a half billion dollars, projected by economist Murray L. Weidenbaum as total NASA (i.e., civilian only) budget for the sixties, seems now to leave little money for anything but a thinned-out Project Apollo. Estimates on space costs by industrial analyst D. C. Eaton, including military expenditures, amount to an enormously high $40 to $50 billion for this decade, while James Williams of United Research, Inc., predicts the incredible expenditure of $100 to $150 billion for the same period. (Fortune similarly estimates the civilian and military space budget for the sixties as running from $75 to $100 billion, not including $50 billion "extra" for missiles.) These figures, it might be pointed out, run higher than the total sum required to bring all the underdeveloped countries in Africa, Asia, and Latin America to an economic "takeoff" point—that is, one at which they could continue to develop on their own.

How, when, and why did we ever commit such a gigantic pile of resources to the penetration into space? Was it all a hasty response to a surprise Soviet challenge, when the Russians orbited the first satellite on October 4, 1957?

As it happens, America's immediate response to sputnik was far from shocked or hysterical. We had had a limited scientific program of space exploration prior to 1957, and President Eisenhower categorically refused to enlarge the program significantly. In the face of swelling public clamor for counterspectaculars, he somewhat increased the budget available for scientific explorations of space. Still the Congress, led by then Majority Leader Senator Lyndon Johnson, was not satisfied. It threatened to take measures of its own to accelerate national space efforts. Finally Eisenhower agreed to submit a new plan, which led to the formation of a National Aeronautics and Space Agency in February of 1958. Even so, by the time Eisenhower left the White House, the total civilian space budget (in fiscal year 1960) was a comparatively meager half a billion dollars.

President Kennedy is usually depicted as the man who initiated the big space spurt in his desire to regain international prestige

[1] The National Aeronautics and Space Administration itself provided this figure and amended it only when, late in 1963, Congressmen who became critical of the space splash picked as a natural target the Moon project which uses two-thirds of the total space budget, leaving only one-third for all the many other space projects. Then NASA, which is guided by some of the most politically astute, public-relations-minded people in the Federal Government, on Oct. 18, 1963, suddenly reduced the cost of the lunar visit, claiming that the actual landing on the Moon would require only between one and three billions. However, the remaining bills were not saved; they were needed anyhow. James E. Webb (NASA's head) claimed that the money must be allotted to projects, such as $5 billion for the development of the rocket needed for this landing (which might also be used for others); $6 billion for unmanned investigation of the Moon; $7 billion for development of the Apollo spacecraft and the lunar excursion models, but not the actual landing. Since this accounting exercise for the benefit of Congress is of little interest, I will continue to base my calculations on the earlier figures provided by NASA itself. The lunar visit, as a whole and not just the landing, will cost at least $20 billion.

lost under Eisenhower and to use the side benefits of the race to get America moving again. Actually, while President Kennedy did at times favor a space race, before it was initiated, while it took place, and shortly before his tragic death he aspired to put space to quite a different use. Instead of a domain to demonstrate national superiority, he sought to make space a zone of peaceful international cooperation; he hoped to save our resources by exploring the stars together with Russia and other nations.

In his inaugural address he made his true space plans clear: "Let both sides seek to invoke the wonders of science instead of its terror. Together let us explore the stars." Again, in his first state of the Union message to Congress, he stated majestically: "I now invite all nations—including the Soviet Union—to join with us in developing a weather-predicting program, in a new communication-satellite program and in preparations for probing the distant planets • • • today this country is ahead in the science and technology of space, while the Soviet Union is ahead in the capacity to lift large vehicles into orbit. Both nations would help themselves as well as other nations by removing these endeavors from the bitter and wasteful competition of the 'cold war.'" Meeting with Nikita Khrushchev in Vienna in 1961, he proposed a joint American-Russian space program. (Later, when Khrushchev cabled congratulations on John Glenn's flight, the President in his acknowledgment again suggested Soviet-American cooperation in space, and followed through with specific proposals.)

But before the slow international machinery could implement any of these ideas, the President faced the low point of his tragically short career with the failure of the invasion of Cuba at the Bay of Pigs in April 1961. Tensions with the U.S.S.R. mounted, and hopes of international cooperation, even in outer space, seemed dim. At the same time the Congress refused to approve most of the legislation advocated by the administration as essential for progress at home. Economists feared that the 1960–61 recession would deepen unless Federal funds were pumped into the economy by some means that a conservatively oriented Congress would approve. A rapid survey of the field pointed to a space race. A hurried "study group," utilizing few earlier reports, examined the project and reported to the President that it would work.

Meg Greenfield reported from Washington to the Reporter: "The moon program was worked out over a hectic weekend in May of 1961 at the Pentagon following Alan Shepard's successful suborbital flight. It was a political response to the Gagarin venture and to the Cuban disaster, among other things. Reportedly, Secretary McNamara, James Webb, of NASA, and a few others met round the clock starting Friday evening and worked out the crash program that was presented to the President for a decision the following Monday. 'We have been told,' as one of the participants puts it, 'not to fool around.'"

Never has a more important peacetime decision been based on less research and deliberation. On May 25, 1961, the President proclaimed the landing of an American on the moon and his safe return to earth as a major national goal and the highest-ranking space project.

But when President Kennedy realized shortly before his death that the space race was getting out of hand, soaking up more and more national resources and accentuating rather than reducing international tension, he sought to curb it once more by renewing his initial proposal of a joint American-Russian exploration. He declared in September 1963 in his last speech before the United Nations: "Why should man's first flight to the moon be a matter of national competition? Surely we should explore whether the scientists and astronauts of our two countries—indeed, of all the world—cannot work together in the conquest of space, sending someday in this decade to the moon not the representatives of a single nation, but of all our countries."

Meanwhile some large corporations, NASA, the Air Force, and some idea men had joined hands to demand even larger sacrifices for the race into space. The succession of Lyndon Johnson to the Presidency in November 1963 augured well for this coalition. Johnson had been a member of the original study group that advocated the space race, the chairman of the Aeronautical and Space Sciences Committee of the Senate, and, as Vice President, head of the top space body where all the space programs of the Nation are coordinated, the National Aeronautics and Space Council. Many of his closest aids were on the staff of NASA during the Kennedy period, including Edward C. Welsh, the executive secretary of the NASC; O. B. Lloyd, Jr., director of public services and information for NASA; Cyrus R. Vane, former consulting counsel for NASA; and Edwin L. Weisl, special council in a Senate inquiry into missile and satellite programs. And in his first speech to a joint session of Congress President Johnson began his statement on policy aims by listing first "the dream of conquering the vastness of space."

It must be remembered that as a Senator, Johnson was representing Texas, which is greatly interested in space industry and research centers. As Vice President, he was entrusted with the care of the mushrooming national space garden. This does not mean that as President, entrusted with the welfare and progress of the whole Nation, he will feel himself spacebound. But whether and to what degree and at what moment President Johnson will call off the race into space that he earlier helped to launch still remains to be seen.

The question must not be posed in terms of going into space or remaining grounded. This is the simpleminded approach to the problem favored by those who have placed their bets on the space race; it makes critics of the race appear as enemies of science and of progress. The question is not an either/or proposition, but one of pace—of haste and waste. It is my contention that the space program in general—especially the moon project and particularly the landing of a man there—has claimed an undue amount of attention and resources; that the race into space has some dangerous side effects that threaten the vitality of our science, undermine our security, and retard rather than advance our economy. Above all, we will see, instead of helping America regain the capacity to chart its own course in the world, the gigantic investments made in charting the moon serve those who seek to preserve the America of yesterday as it is confronted with the problems of tomorrow.

Mr. FULBRIGHT. Mr. President, I invite the attention of the Senate to a statement by Professor Etzioni about the origin of the moon program. The first inclination of President Kennedy was to propose a joint program with the Russians. I quote a part of the introduction:

> Meeting with Nikita Khrushchev in Vienna in 1961, he proposed a joint American-Russian space program. (Later, when Khrushchev cabled congratulations on John Glenn's flight, the President in his acknowledgment again suggested Soviet-American cooperation in space, and followed through with specific proposals.)

Unfortunately, subsequently to that meeting there occurred the Bay of Pigs expedition in 1961. It had considerable effect upon our relations with the Russians, not only in the field of space projects, but in all other fields, as well. It precipitated a much different climate. The author wrote:

> Meg Greenfield reported from Washington to the Reporter: "The moon program was worked out over a hectic weekend in May of 1961 at the Pentagon following Alan Shepard's successful suborbital flight. It was a political response to the Gagarin venture and to the Cuban disaster, among other things. Reportedly, Secretary McNamara, James Webb of NASA and a few others met round the clock starting Friday evening and worked out the crash program that was presented to the President for a decision the following Monday. 'We have been told,' as one of the participants puts it, 'not to fool around.'"

That was the origin of the moon program, according to Professor Etzioni. I am sure there was more to it than that, but what he wrote makes some sense. Because of the disaster of the Bay of Pigs and the success of sputnik, the United States was determined to do something spectacular to impress the world that the United States had not become a second-class country.

I have much more confidence in the capability of the world to judge whether or not the United States is a second-class country. I do not believe that either of those events had any such actual effect upon the world's thinking. I am not prepared to throw away $5 billion to show that we are a great country. Everyone knows that we have made mistakes, and this is one of them. But I do not wish to pay for it in any such fashion as this.

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

Mr. FULBRIGHT. I will yield on the Senator's time.

Mr. ANDERSON. Yes, on my time.

Mr. FULBRIGHT. I yield to the Senator from New Mexico on his time.

Mr. ANDERSON. Does the Senator place any reliance on the authority he has cited?

Mr. FULBRIGHT. I do, because of the nature of the program and the justification that has been given for it by the proponents. I read a moment ago a statement prepared for delivery today justifying this program on the ground that we must be first in space; that we must impress the world that we are first in space and that we are a great country. This point of view is consistent with many things that have been said on the floor of the Senate in the past by the proponents of the program.

Mr. ANDERSON. I think it would be well if the Senator would check to learn whether the moon program was started in the Pentagon in 1961, after the Bay of Pigs disaster. He might learn that it did not.

Mr. FULBRIGHT. I stated the origin of it. This statement was by the reporter who wrote the article.

Mr. ANDERSON. I have read some articles, too.

Mr. FULBRIGHT. I do not know of my own knowledge. I assert that this description of the way the program started is quite consistent with the program as it is presented. I spoke about

President Kennedy. Everyone knows that I have the greatest respect for President Kennedy. He was a very great man. I would in no way reflect upon him. I discussed this question with him before his unfortunate, tragic death. I do not wish to delay the Senate by going into detail, but in summary his attitude was that the project as originally started would contribute to moving this country ahead, that it had strong support, and that this would get money into the economy of the country and help get it to moving again, as he was anxious to do. Therefore, it had what they called a "fallout" effect, aside from its own merits. I do not believe that that is an inaccurate description of his attitude.

In 1963, after things had calmed down——

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 additional minutes.

Mr. FULBRIGHT. President Kennedy in his last speech before the United Nations stated:

> Why should man's first flight to the moon be made a national competition? Surely we should explore whether scientists and astronauts of our two countries—indeed, of all the world—cannot work together in the conquest of space, sending someday in this decade to the moon not representatives of a single nation, but of all our countries.

That being in his last speech before the United Nations, it shows that he came back to his original idea that this project should not be a kind of childish competition to see who was first in a spectacular race to the moon, but that he had recognized that this was the kind of project to be pursued on a multilateral basis—with the Russians, or anyone else who wished to cooperate in it.

So I say that the arguments which have been advanced to justify this crash program are wholly without foundation.

There is one sentence in the introduction:

> The question is not an either/or proposition, but one of pace—of haste and waste.

I believe that summarizes the argument about as well as I can do it.

Mr. President, there came to my attention an article published in the Arkansas Gazette which I believe sums up this situation in a rather striking manner. This reported a speech in my State by Dr. John R. Emens, president of Ball State Teachers College, Muncie, Ind.

Dr. Emens said:

> Outer space is a great challenge to man, but the space between the ears is the greater challenge.

I believe that sums it up very well.

Here we are, in some fantastic manner engaged in a program involving more than $5 billion in 1 year, and neglecting the education of our people. In other words, we are neglecting the improvement of the space, and even the investigation of the space, between the ears.

He says further:

> The challenge of inner space is under men's hats. It is the most undeveloped territory in America today.

I know of no better way to put it.

Mr. President, I ask unanimous consent to have this article printed in the RECORD.

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

[From the Arkansas Gazette, May 31, 1964]

SPACE BETWEEN EARS NEEDS DEVELOPMENT, SPEAKER SAYS

JONESBORO—Outer space is a great challenge to man but the space between his ears is the greater challenge, Dr. John R. Emens, president of Ball State Teachers College of Muncie, Ind., told the largest graduation class in Arkansas State College's history Saturday night.

"The challenge of inner space is under men's hats," Dr. Emens said. "It is the most underdeveloped territory in America today."

He told the 467 graduates, "The next 25 years will herald an era of scientific knowledge unequaled in all history, with no country more than 24 hours away."

He said that it was a current misconception that everything in the world was changing. This is confusing and does not develop a feeling of security among young people, he said. The changes in scientific areas must be recognized, he said, but "we must all face the fact that the major problems of life are constant."

Mr. FULBRIGHT. Mr. President, the Senator from Oregon, who is willing to contribute to this debate, has had a great deal of experience in trying to get money for education as the best answer to help the situation. When did we ever get $5 billion to enable the young people of this country to meet the challenges, even of the space age.

There is much that must go unsaid under the limited time that we have today with regard to needs in other fields, particularly in the underdeveloped area of space between the ears.

So, Mr. President, I hope that the Senate will take a second look at this problem, as I believe President Kennedy was doing before his untimely death. We got into this program under the impulse of the Bay of Pigs, and the orbiting of sputnik by the Russians. It was a highly emotional era, in which we were told that America was falling behind the Russians in the space race and that we must do something dramatic to reestablish our position in the world. Senators will remember that our prestige in the world became an issue in the last campaign, and a great deal was made of it. All this I believe is nonsense compared to the actual state of the world. I do not, for one moment, believe that there is anything substantial to the argument the United States is behind the Russians either in this field or in any other field of any significance to the human race.

I do not wish to downgrade the accomplishments of the Russians in any field. They have done and they are doing a competent job in space, particularly in the field of rocketry. But this is not a justification of this type of program. It is erroneous and false to base the project of going to the moon with a man on any such consideration as our prestige. Our prestige does not need support of this nature.

There is one other item I should like to mention before I take my seat. I invite attention to the argument that will be made about the cost of the delay. NASA finds itself, in my opinion, in an inconsistent position. It is now trying to downgrade the——

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that I may proceed for one-half minute.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for one additional one-half minute.

Mr. FULBRIGHT. I received a letter of February 14, 1964, in reply to my inquiry as to the effect of cuts on the cost, and I ask unanimous consent that this letter be printed in the RECORD at this point.

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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., February 14, 1964.

Hon. J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FULBRIGHT: Administrator Webb has asked me to reply to the questions which you directed to him concerning funding of NASA programs. Three of these questions concerned the current projected date for a manned lunar landing and the effect on that date of the disallowance of our supplemental budget request both (a) alone and (b) in conjunction with certain percentage reductions of our budget for fiscal year 1965.

With congressional approval of requested funding, we expect to achieve a manned lunar landing in 1969. If we are fortunate enough to attain maximum success in preliminary portions of the schedule, the landing may be made before 1969.

If the $141 million fiscal year 1964 supplemental is not allowed but the 1965 budget request is approved, we estimate that the delay in accomplishing manned lunar landing will approximate 6 months.

If the supplemental request of $141 million is denied and the fiscal year 1965 R. & D. budget request for the Apollo program of $2,677.5 million is cut by the following percentages, assuming full funding in later years, the estimated delays are: (a) 10 percent, 1 year; (b) 25 percent, 1½ years; (c) 50 percent, 2½ years.

In addition, it is important to note that a stretchout of the landing date caused by insufficient funding in fiscal year 1965 will most assuredly increase the total cost of the lunar mission. Our studies show that the total cost would increase by approximately $1 billion for each year the landing is delayed. Thus, our estimates reflect that a 1-year delay will cost about $1 billion; a 1½-year delay $1.5 billion; and a 2½-year delay some $2.5 billion.

In response to your fourth question concerning the percentage of NASA's contracts that are cost-plus-fixed-fee, I am enclosing a copy of the extension of remarks for the RECORD, Dr. Robert C. Seamans, Jr.'s testimony before the House Science and Astronautics Committee, February 5, 1964. Dr. Seamans' statement provides not only the answer to your question, but related figures that will be of interest.

Sincerely yours,

RICHARD L. CALLAGHAN,
Assistant Administrator for Legislative Affairs.

Mr. FULBRIGHT. I invite the attention of Senators to page 2 of this letter, which states that the study forces them to the conclusion that the cost of the lunar mission would increase by approximately $1 billion for each year the landing is delayed.

Yet in other arguments, it is said that the Apollo project of going to the moon is a small part of the overall project. They cannot have it both ways. They cannot minimize the cost of the Apollo project and at the same time say that a year's delay will cost a billion dollars, because the statements are utterly inconsistent.

Mr. President, I yield the floor.

Mr. ANDERSON. Mr. President, I yield 5 minutes to the Senator from Florida [Mr. HOLLAND], a valuable member of our committee.

Mr. HOLLAND. I thank the Senator. I wish to make three points.

First. I am a member of this committee; and I do not recall that the distinguished junior Senator from Arkansas, or anyone else, appeared before our committee to make this point at the proper place and at the proper time when the committee was considering the matter.

Mr. FULBRIGHT. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. FULBRIGHT. I made a statement last fall on the floor of the Senate. I explained the facts, and offered an amendment, which 36 Members of the Senate voted for. So this should not come as any surprise to the Senator.

Mr. HOLLAND. I realize that it does not, because we have known about the obsession of the Senator from Arkansas for a good long time. But we held long committee sessions and long committee meetings in an effort to get to the bottom of the problem. The Senator from Arkansas did not honor us by appearing, and neither did any other Senator who took the same position that he does.

Second. The Senator mentions education. I wish him to know that hundreds of millions of dollars have been pumped into the educational system of this Nation because of the space effort. In my own State of Florida, in this last year, we voted, for the first time, an amendment to our constitution to permit the issuance of $75 millions in bonds for the purpose of constructing new buildings at the institutions of learning. A large part of this amount will be spent in building a new higher institution of learning devoted to the same fields of science that are so greatly needed in the furtherance of this space program, located close enough so that the people residing in the Kennedy Space Center area—and there are many thousands working with the various contractors—can attend that institution. That is only a part of our effort, in our State alone. I am told by people from California that the amounts which they have pumped into their institutions as a result of the space effort will run into the hundreds of millions of dollars.

I am told by those from the Houston area that the same thing is true there. We were told about the same story when the question arose as to establishing the Electronics Space Center at Boston. The same situation prevailed there. In addition, to the clear results in the education plants at the higher education level, much progress resulted at the junior college level, and at the high school level. The aggregate amount has been enormous because of the impetus of this particular program.

Anyone who thinks that this program has not contributed to a vast extension of education in this country has not followed the matter closely. I do not care whether one has read a book, or made a speech on the floor of the Senate, or what he has done, he simply does not know the facts, if he thinks that this program has not contributed, and is not contributing vastly to the extension of education in our country.

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

Mr. HOLLAND. I have only 5 minutes. I regret that I cannot yield. But if I have any time left, I will yield at the end. This program is either good or bad. The Senator offers a proposal which is similar to cutting off an inch of the cat's tail at a time so it will not hurt. Whether it is a good bill or a bad bill, a necessitous or nonnecessitous program, if the Senator wants to come before our committee, or if he has a question to ask concerning the matter, he could ask it. That is how he would expect the matter to be handled before the Foreign Relations Committee. I have heard the Senator speak frequently about people who have come forth on the Senate floor with proposals that have not been dealt with in the committee.

Our committee has a difficult task. We are not scientists. But we are trying to get to the bottom of these problems as best we can. To propose to cut off a program without recognizing the great impetus to education which this very program has given, and the great impetus which it has given to the prestige of this country throughout the world is not an appropriate way in which to approach the problem.

I hope the amendment will be defeated.

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

Mr. ANDERSON. I yield.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. ANDERSON. I yield 1 minute.

Mr. HOLLAND. I am glad to yield.

Mr. FULBRIGHT. With regard to the education program, I recognize that the amount this year has been increased, I believe from $73 million to $146 million, and spread among nearly 140 schools.

Mr. HOLLAND. The Senator is referring to the education program through NASA?

Mr. FULBRIGHT. Yes.

Mr. HOLLAND. I am talking about the education program throughout my own State of Florida and elsewhere which is a major program.

Mr. FULBRIGHT. The State of Florida is a principal beneficiary of this bill. I appreciate the Senator's interest in it. I would be interested in it, too, if that kind of money were being spent in Arkansas.

Mr. HOLLAND. If the Senator's objection is that it has not been located in Arkansas, I realize that he has not understood the matter up to this time.

Mr. FULBRIGHT. If it were being spent there, it would be extremely difficult for me to oppose it. Not having any strong State interest involved, I can be objective about it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. I fully expect the Senator to seek this when I see how this money has been distributed through all the States and all the schools, and a little bit handed out as a goody for everybody here. I recognize the facts of life.

Mr. HOLLAND. Mr. President, may I have 30 seconds?

The PRESIDING OFFICER. The Senator from Florida is recognized for 30 seconds.

Mr. HOLLAND. I have defended and stood with the Senator from Arkansas on many issues—on his exchange program, and many other aspects of education; and I shall continue to do so. But I never expected the distinguished Senator from Arkansas to be apparently as blind as he is to the fact that this particular space effort is contributing more vastly as an impetus to education in our country than any other one effort that we have had in my lifetime.

I appreciate the courtesy of the Senator from New Mexico in yielding.

Mr. ANDERSON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 1 minute.

Mr. ANDERSON. The Senator from Arkansas suggested that the State of Florida was the chief beneficiary of this program. The Senator does not have the facts. The first State is the State of California. The State of Florida is about the fifth on the list behind Missouri, Louisiana, and New York.

Mr. FULBRIGHT. Does that include Cape Kennedy?

Mr. HOLLAND. Yes.

Mr. ANDERSON. If the Senator from Arkansas would come to the hearings of the Committee on Aeronautical and Space Sciences on this subject and ask these questions, those facts could be given to him.

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

Mr. ANDERSON. I yield on the Senator's time.

Mr. FULBRIGHT. I do not think I said "the principal one." It is one of the principal ones, receiving a very substantial amount adding up to several hundred millions of dollars. There is so much money in this program that it represents a vast amount for a number of States.

Mr. ANDERSON. I yield myself one-half minute.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for one-half minute.

Mr. ANDERSON. I hope the Senator from Arkansas will read the wording. He used the term, "the principal beneficiary." I did not want the Senator to be in the position of using the wrong terminology.

Mr. FULBRIGHT. The list is quite clear as to who gets the money. I put it in the RECORD. I was not trying to make any particular point. It is a matter of public record as to who the beneficiaries are.

Mr. MORSE. Mr. President, will the Senator yield me 5 minutes?

Mr. ANDERSON. I yield.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. MORSE. Mr. President, I asked to have this matter brought back primarily for a rollcall vote. It was handled through a parliamentary procedure day before yesterday that did not permit many of us to know it was coming up. As I said yesterday I criticize no one for the way it was handled. However, most of us who oppose the moon project were off the floor attending to other official Senate business and were not given any notice by way of a quorum call. We want to make our case against a $5 billion authorization for the moon project about $3 billion of which will be spent on trying to put a man on the moon. We think that first things should come first in spending the taxpayers' dollars and this project should not have top priority.

Also we say that we should have a rollcall vote on this huge expenditure proposal.

Permit me to say to the Senator from Florida, and the Senator from Arkansas that the position of the senior Senator from Oregon is that we are moving as fast as we should and can justify in connection with the Apollo program. This authorization proposal for $3 billion is an unjustifiable spend up. Our amendment calls for only a 10-percent cut. I had hoped to have a larger cut. I talked with my friend from Arkansas, and he said it would be better to get a 10-percent cut than no cut at all. I would cut it drastically. I do not think there is the need for the rush act that the proponents of this project are urging. I think there are a good many loony features to this program. I would like to go a little slower on it. But, Mr. President, I am rather heartbroken this morning about the sense of values of the Senate of the United States. For, yesterday, in my judgment, inexcusable, shocking injustice was done to my State when I sought only $5 million for the most serious poverty-stricken pocket in the United States. I urged that we go to the assistance of this area, as President Kennedy had recommended. It was his project. There was little debate on the floor of the Senate on my proposal for an Indian school at Tongue Point. But I have been told this morning by friends what the cloakroom arguments against me were. "Why, MORSE attacked the Appropriations Committee." One would think the Appropriations Committee is a Senate sacred bull. I am told by a Senator that one member of the Appropriations Committee argued that he should vote against my Tongue Point amendment because it would jeopardize two Indian schools in Alaska. That is false. No Indian schools in Alaska, or anywhere else in this country, would have been affected one iota by the proposal to come to the relief of the most depressed poverty pocket in America, by establishing a special Indian school there as recommended by President Kennedy. West Virginia, the Appalachian area are no more depressed than Astoria, Oreg., and no single community of its size in West Virginia and Appalachia has been hit harder than Astoria.

Look at the rollcall of yesterday on my Tongue Point request. Today Senators who voted against it see no inconsistency in their urging $3 billion for an Apollo project. But yesterday they were blind to the needs of the State of Oregon and their false sense of values caused them to vote against giving the State of Oregon the sum of $5 million for the relief of the most depressed poverty pocket in the country.

I want to say that the Senator from Oregon will do what he can to slow up unnecessary expenditures. I am not against the moon project, as the Senator from New Mexico knows, and as the Senator from Florida knows. I am against authorizing all of $3 billion this year. Further, I want to say that I reject completely his argument that because the Senator from Arkansas and the Senator from Oregon did not raise an objection at hearings before the Space Committee we are estopped on the floor of the Senate from offering an amendment. There are committee meetings by the scores that we never know about. We cannot be expected to know about them. Yet when we get a bill on the floor of the Senate and think it ought to be amended, we are told that we are estopped because we have not gone before a committee and offered our objections to the bill at the time of the committee hearing. There is no justification for arguing by implication that we are estopped from offering an amendment on the floor of the Senate. I do my very best to keep up with my work. But there are only 24 hours in a day. It is the duty of every Senator to offer amendments to bills on the floor of the Senate whenever his study of them satisfies him that they should be amended. If such a duty and right did not exist then much of the purpose of floor consideration of a bill would be destroyed.

When I see the Senate display the false sense of values that it exercised yesterday, relying on falsehoods in the cloakrooms in regard to Tongue Point as a basis for its opposition, I am saddened; my opponents should have had the courage and fairness to come to the floor of the Senate and meet the senior Senator from Oregon head-on in regard to the Tongue Point issue yesterday. I say I shall not vote for $3 billion for this project until we can get a more equitable distribution of the money available for relief at home.

We can reduce by 10 percent the authorization on the Apollo project and spend it for more immediate benefit to the people of our country in connection with some of our poverty-stricken areas. But if the Senate wishes to conduct itself as it did yesterday and impose that kind of unfairness upon the senior Senator from Oregon, that is its privilege. But the senior Senator from Oregon does not intend to take it without a fight. I am deeply concerned about what happened on the floor of the Senate yesterday afternoon when Senators were not willing even to listen to the facts or to come to me and get the facts, but acted on the basis of the gross misrepresentations that have been reported to me this morning as having been spread in the cloakrooms of the Senate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MORSE. Mr. President, may I have 1 additional minute?

Mr. FULBRIGHT. I yield an additional minute.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 1 additional minute.

Mr. MORSE. That kind of injustice cannot be justified in the Senate.

I repeat that my State is at the bottom of the totem pole so far as the expenditure of Federal dollars among the Western States is concerned on a per capita basis. We do not have any large defense installations. There is not a single defense installation of any major importance in my entire State. One would not know that Oregon was in the Union on the basis of the treatment that it has received from the Congress and the executive branch of government in respect to defense expenditures. I think it is about time that we started to do some equity in defense expenditures and see to it that Federal dollars at least are distributed with some degree of equity. I agreed with President Kennedy and the Navy Department that the Tongue Point Naval Base, which was a small base, but the only major defense installation that we had in the whole State, should have been closed because it had become obsolete to the then Navy use.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MORSE. Mr. President, I ask for an additional one-half minute.

Mr. FULBRIGHT. Mr. President, I yield the Senator from Oregon one-half minute.

The PRESIDING OFFICER. The Senator from Oregon is recognized for one-half minute.

Mr. MORSE. Mr. President, we should put that fine facility to a Federal use. We are asking to save 10 percent on this project so that we can have some more money to take care of some of the seriously depressed areas that exist in our country.

We had better pay attention to what is going on on this globe before we agree to pour $3 billion into the moon. Desirable as it may be, in the long pull to have the moon project there is no need for a crash program when we need so much to take care of our emergencies right here at home. We are moving too fast, in my judgment, in the light of our domestic needs. So I plead for a rollcall, for it will be an interesting comparative rollcall—$3 billion for the moon, but not $5 million to help out the people in the most serious poverty pocket in the United States.

The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the Senator from New Mexico.

Mr. ANDERSON. Mr. President, first I wish to say that it was not my privilege to conduct the hearings on the authorization bill this year. I had other obligations. The able Senator from Missouri [Mr. SYMINGTON] conducted them. I believe he conducted them extremely well. The hearings that I attended were conducted very well. I believe that he tried very hard to bring out a budget that was below the figure for last year, and therefore an amount which he thought was right and proper, and which I thought was right and proper. I realize that it is easy to say that any money saved on the project might go for purposes of education if we did not spend it for the space organization.

I have been in the Senate for a few years. I have never seen the time when the cutting off of money for one project automatically put it into something worthwhile. Many of us, many times, have appealed for money for education, for public health, and for projects of that nature by cutting down on other programs. When a program was cut down, somehow the money saved never found its way into education channels. I do not believe that the proposal would be a way to get money for education.

I assure Senators that the Committee on Aeronautical and Space Sciences, at least, and, I believe, the entire national organization, is not opposed to the spread of education. We have watched the work being done in colleges. Many of us have examined minutely the programs which are in operation; and, I believe, across this country there has been a great development of interest in science because of the things which NASA has been doing to speed the project along.

Those opposed to the NASA budget, in effect, accuse the Committee on Aeronautical and Space Sciences of authorizing more than $5 billion as fiscal year 1965's contribution to a $20 billion stunt to land a man on the moon by 1970.

I remind Senators that there was a lead program a long time ago. The Eisenhower administration instituted a study program that included a lunar landing. The great difference was that the lunar landing was to take place late in the 1970's and was to cost many billions of dollars. I would refer the Senator to "Special Committee on Space and Astronautics Print No. 1," dated March 27, 1958, and more specifically to President Eisenhower's Science Advisory Committee's document entitled "Introduction to Outer Space." The administration of President Kennedy decided to move the project ahead, and agreed that a sum of money somewhere in that neighborhood, perhaps a little larger, might be used.

Mr. FULBRIGHT. Mr. President, will the Senator explain the Eisenhower program? Was it ever presented to the Senate?

Mr. ANDERSON. Certainly; to the Senate committee.

Mr. FULBRIGHT. What happened to it?

Mr. ANDERSON. The first phase was approved. We started ahead on the program. We did not appropriate all the money. But the Eisenhower program of lunar research involved $22 billion for the 10-year plan and costed out to some $30 billion through 1975.

Mr. FULBRIGHT. Thirty billion dollars was authorized?

Mr. ANDERSON. No; we are not authorizing the entire lunar program now.

Mr. FULBRIGHT. What did the Senate find for the Eisenhower program?

Mr. ANDERSON. I would have to go back.

Mr. FULBRIGHT. It was not any substantial amount, was it?

Mr. ANDERSON. It was.

Mr. FULBRIGHT. I had never heard of that before.

Mr. ANDERSON. In the 1940's there was a program called Project World Series, in which was considered the possibility of developing a program to send a man to the moon and around the earth.

Those projects have been in existence for a long time; they have not been developed suddenly.

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

Mr. ANDERSON. I yield.

Mr. HOLLAND. Is it not a fact that the committee, following the recommendations of the President, materially slowed down the post-Apollo portion of the program, but decided that the Apollo portion of the program already underway and in an advanced stage should proceed at the economical and prepared speed, but that there is a material slowing down of the general space program as to the post-Apollo portions thereof?

Mr. ANDERSON. Yes, indeed. A study was conducted at one of the Midwestern universities to determine what the level of expenditures in the space program for the next 10 or 15 years would be. When I took the responsibility of the space program, I looked at a copy of that study and found that by 1975 the expenditures would run to approximately $13 billion for a single year. I devoted a great deal of my time to be sure that the level of expenditures did not reach any such figure as that, because it seems to me to be excessive. I wish I could supply the Senator from Arkansas with the amount furnished under the Eisenhower administration. I believe it was about $2 billion.

Mr. FULBRIGHT. To make it clear, was that $2 billion appropriated to go to the moon, or was that required in rocketry and missiles?

Mr. ANDERSON. One cannot go to the moon without a rocket. It was called the lunar landing program.

Mr. FULBRIGHT. I never heard of that before. I remember very well the discussions about missiles for military purposes. However, as late as yesterday morning in the committee I asked General Taylor whether landing a man on the moon would have any military or defense significance. He said, "Nothing direct. The indirect effect of rocket study might have some effect, but the Defense Department is conducting its own research."

I remind Senators that the NASA program is not all that is going on in the space field. The Defense Department has $1.5 billion budgeted for their purposes. The lunar landing program has no significant part in the defense program. Bringing up the Eisenhower proposal confuses the issue. I believe that it was largely a defense program. Is that true?

Mr. ANDERSON. My understanding is that it involved a great many years. Keith Glennan was brought down here to operate a space program. I was in the original group that studied that question. I remember well the discussion we had. I do not know how many are still on the original committee that made the investigation of the question, but I am at least one of them. I know the program did involve lunar exploration and all of those things that go with it.

Mr. FULBRIGHT. The portion of the exploration that is so expensive is the participation of man, is it not? Is it not true that putting a man on the moon is much more expensive than using instruments to explore the moon?

Mr. ANDERSON. Putting a man on the moon is much more expensive than putting instruments on the moon. It is more expensive to send a man with a device of some nature such as a camera to the moon than it is to photograph the moon by sending a camera to take the pictures. Those things, while expensive, are necessary in the program.

Broadly stated, this program includes, among others, the following goals:

First. The preservation of the role of the United States in aeronautical and space technology and its peaceful application.

Second. The expansion of human knowledge.

Third. The development and operation of vehicles that will carry men and scientific equipment through space.

Fourth. The exchange of information and discoveries between the civilian space administration and agencies concerned with national defense.

Fifth. The conduct of long-range studies, of benefits, opportunities, and problems involved in aeronautical and space activities for peaceful and scientific purposes.

To accomplish these goals, it is necessary that the space program proceed at an emphatic pace. It should be obvious to everyone that our efforts in space programs must also be paced so that this country will be able to:

First. Provide insurance that its science and technology will not become obsolete in an age of explosive advances in scientific knowledge, engineering techniques, and other technological innovations.

Second. To provide insurance against the hazards of surprises in space technology, with their possible adverse national security, psychological, and political consequences.

Third. To lead the world into the space age in such a manner as to derive benefits for all mankind.

The reason that the question should be directed to "Why a space program?" rather than "Why a lunar landing?" is

that if we are to achieve our overall objective of becoming preeminent in space, we must explore, to the extent that we have the national capability to do so, all facets of space exploration.

Space is so vast and knowledge of it so limited that even beyond what we are now doing in the program, there are many more well-thought-out basic experiments and many more sound projects that could be devised, and in fact must be done, before dominance of space becomes a reality.

Your committee has asked NASA, and the President has asked both NASA and the National Aeronautics and Space Council to prepare studies of what steps should be taken to preserve the continuity of our national space program. They will report by the end of the year.

Speaking specifically of the manned lunar program, it has been my experience with the atomic energy program that research without an application in view is not as effective as research directed to a specific goal. A manned lunar landing by 1970 is not the objective of our space program, but it is that program's focal point—the specific goal that gives the program a frame in which to work.

I am sure that many will argue that the improvements in the state of the art in many of the disciplines involved in the space program could be accomplished without what some people have called the lunar stunt. I, for one, do not agree with this position and feel that by focusing the space technology upon a lunar landing—a mission that will require much of the broad spectrum engineering and research involved in the space program—we will clearly demonstrate to the world what we can do in space, and we will clearly demonstrate the virility and competence of our scientific and technological community.

Administrator Webb recently estimated that the entire manned space program now approved would cost less than $20 billion. Of this figure, however, about 90 percent is to develop basic space capabilities that we must have for preeminence there.

The lunar program, therefore, provides a goal around which to rally our scientific and technological aerospace talents. If there had been no decision to proceed with a lunar landing, but our national policy was still to achieve preeminence in space, much of the work now being done in the Apollo program would still need to be done.

We would, in fact, need another focal point for our space program—one that might not be as good, and could certainly not be better, than putting a man on the moon and bringing him safely back to earth.

One must caution at this time that to slow the program down merely because of its costliness could well endanger the national security by the program's failure to achieve one important goal, which I previously stated: Provide the necessary insurance against the hazards of surprises in space technology with their possible adverse national security and political consequences.

Those opposed to the NASA budget in effect accuse the Committee on Aeronautical and Space Sciences of authorizing more than $5 billion as fiscal year 1965's contribution to a $20 billion stunt to land a man on the moon by 1970.

You could not get 15 Members of the U.S. Senate to endorse such a stunt, and we would not do so. What we did do was to endorse a balanced program to meet this Nation's needs in the age of space.

Mr. President, there was inserted in the RECORD today an article from the Reader's Digest which discussed the work of sending a man to the moon. We had prepared an analysis of the article some time ago, in answer to the article that appeared in the Reader's Digest. We had hoped that the Reader's Digest would use it, but apparently it does not intend to do so. Therefore, I ask unanimous consent that this reply to the article be printed in the RECORD at this point.

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

REPLY TO READER'S DIGEST ARTICLE

Since the passage of the National Aeronautics and Space Act of 1958, Congress has borne the heavy responsibility of reviewing each year the proposed level of effort and priorities in the national space program. In discharging this responsibility, Congress has and will continue to look for guidance on the part of a free and informed press and citizenry.

As a consequence, I read with interest the provocative article by Blake Clark in the January issue of Reader's Digest, as did many of my colleagues in both Houses. While the article did spotlight many questions which supporters of the Apollo program must be prepared to answer this year as they did last, I do not believe it provides a reasoned evaluation of this program based on a thorough understanding of its nature or its objectives. Because Mr. Clark was apparently misinformed or uninformed about the aims of the program, its pace, its cost, and wholly unaware of the broad national interest this program already serves and will continue to serve in the future, he is also mistaken in his conclusions. Moreover, Mr. Clark errs in presenting the Apollo as a one-shot attempt to place men on the moon, ignoring all of the flight operations which will precede that effort. There can be no argument that preeminence in space, and our defense capability in space, require extensive operational experience in near-earth orbit. But this is precisely what the Gemini and Apollo programs will give us. American astronauts, in these two programs leading to the exploration of the moon, are now programed to spend between 4,500 and 5,000 man-hours in near-earth orbital space operations before the first team departs for the moon. When this is contrasted with less than 55 hours of manned flight in the entire Mercury program, it is apparent that Apollo will yield an enormous amount of valuable flight experience in the near-earth area of space. This flight time will include essential experience in techniques such as rendezvous and docking, which are regarded as an important prerequisite for potential military operations such as inspection of hostile or potentially hostile spacecraft, etc.

In order to set the record straight, allow me to summarize briefly why I support this program and why I urge my distinguished colleagues to continue to support in a bipartisan manner this important research and development effort.

1. The Apollo program is much broader than a single project aimed at landing Americans on the moon in this decade. It is this Nation's principal effort to establish a fundamental and far-reaching national competence in manned space flight at the earliest time consistent with sound technology advancement and resource availability—a competence which can be used to meet any future need, military or civilian. To hamstring this effort is to deny us the national power which accompanies the capability to launch large payloads into this new environment and to acquire the operational benefits accruing from preeminence in space exploration and operation.

2. Apollo is not a crash program that has got out of hand. We are not resorting to round-the-clock shifts, premium overtime, parallel lines of development, or any of the other techniques normally associated with a crash program in order to achieve the objective of lunar exploration within this decade. Responsible officials of NASA have in recent weeks convincingly shown that, based upon what capability we already have in hand, the Apollo program is being conducted on an optimum cost schedule; to stretch out the program would cost approximately $1 billion additional for each year we delay our actual effort to explore the moon. Similarly, an acceleration of 6 months, which is conceivable from a technical sense, and which would require something which could perhaps be described as a crash effort would also increase the cost by $1 billion.

3. Mr. Clark is also mistaken concerning the cost of the Apollo program. NASA Administrator Webb and other responsible officials have again assured Congress that all manned space activities of NASA already completed (Mercury) or now underway (Gemini and Apollo) will cost about $20 billion during this decade. Costs in the Apollo program directly attributable to the lunar landing mission (chiefly for the lunar landing module and other aspects of the Apollo spacecraft which would not be needed in earth orbit) will absorb about $2 billion of this total. Ninety percent of the costs of the Apollo program are for scientific research and technological development which are required in pursuit of the overall national objective—preeminence in space—and which would be required even though we had neither the desire nor the intention of attempting a lunar exploration within this decade. New defense activities in space are continually being added to the national program, with NASA providing full support to the Military Establishment, as the need for such military projects is identified.

4. The article proposes diverting money from the "moon race" and applying it directly to new military uses of space which have not yet been clearly identified. What Mr. Clark does not state, however, is that an ambitious and effective military space program is already in being, totaling over $1½ billion for the current fiscal year. Mr. Clark completely overlooks the role of NASA as a research and development organization with the responsibility of providing new knowledge and new technology for use by other agencies of the Government, including the Department of Defense. He ignores the history of its predecessor, NACA, as the source of the technological and scientific development on which our rise to the stature of world leadership in aeronautics, both military and civil, was based. Just as NACA provided this basic research and development activity which permitted our Defense Establishment to achieve supremacy in the air, so will it provide the basic science and technology required for military supremacy in space. This is a fact which has been stated repeatedly over the last several years by the responsible leaders not only in the civilian side of the Government but in the Military Establishment as well.

5. NASA and the Department of Defense took important steps during 1963 toward greater coordination and cooperation in car-

rying out their respective parts of the national space program. Moreover, it was announced in December that the Air Force would develop a manned orbiting laboratory using the NASA Gemini spacecraft as a key part of the system. This program again demonstrates the growing contribution of the NASA scientific and manned space flight programs to the Nation's defense potential. In this letter I cannot discuss all the points in Mr. Clark's article which lead to mistaken conclusions about the Apollo program and its role in the national space effort. But I do want to make clear my conviction that there is no need at this time to reevaluate, curtail, or slow down Apollo.

Apollo has a reasonable schedule, carefully estimated costs, and goals which can be understood by everyone. The main task before the Congress and the Nation now is not to reevaluate the Apollo program, but to carry it through to successful completion on time and on cost with the most efficient management possible. For this is the only way we can obtain the national strengths President Kennedy recommended as goals in 1961 and which the Congress affirmed as a national goal. President Johnson, who was a principal advocate of this effort both in the Senate and as Vice President, has endorsed this program once again and has asked the Congress and the Nation to carry on this task. The returns from achieving this goal will be many.

We must take into account the anticipated increase in our defense potential and in our capacity for effective international leadership. We must weigh the new knowledge, the new science, and new technology to be gained. We must consider the economic impact at a time when defense expenditures are slackening off. We must seek to measure the value of the stimulus which space exploration gives to our society in general and to our young people in particular. We have also to consider the desire of the American people to explore space, to carry on their pioneer tradition, to respond to a national challenge beyond the needs of national security.

Perhaps a lunar landing cannot be justified for any one or two of these reasons alone. But all the reasons, considered together, make a convincing case for an Apollo effort including the landing target as a means of focusing the technical effort involved.

Our investment in the Apollo program will be less than one-half of 1 percent of our national income (GNP) during this decade. Moreover, when employment of scientists and engineers in the NASA manned space flight program (Gemini and Apollo) reaches a peak some time in 1965, less than 3 percent of the Nation's growing pool of scientists and engineers will be involved. Even more importantly, NASA's graduate training program will be adding to the Nation's reservoir of engineering and scientific talent and building new banks of resources rather than draining such capability from that available to the Nation.

I hope, as the space debate continues, that the costs and benefits of the Apollo program will become clearer to everyone, and that the viewpoint of those of us who believe that this Nation must achieve preeminence in the new environment of space will be more clearly understod. Only by maintaining our drive toward this objective can we insure that this new knowledge is used for our own national interest and for the benefit of all mankind.

I enclose a more detailed analysis of Mr. Clark's article which was made at my request and which supports my general reaction of the article.

Mr. ANDERSON. Mr. President, if we add all the costs of all manned space programs, and unmanned supporting programs, proposed during this decade, the combined cost totals $22.5 billion. This cost is broken down as follows:

	Millions
Spacecraft	$5,053
Launch vehicles	7,702
Engine development	1,190
Launch and flight support	863
Tracking and data acquisition	776
Facilities	1,664
Installation operations (AO)	2,253
Total	19,501
Add costs of supporting projects that have independent scientific and technical objectives, i.e., space science exploration, MOL development and manned space flight techniques:	
Mercury, Gemini	1,805
Space science programs	1,117
Advanced study beyond Apollo	164
Subtotal	3,086
Total	22,587

It will be noted that this summary includes $1.8 billion for the Mercury and Gemini programs, which develops scientific and technical knowledge directly transferrable to the DOD manned orbital laboratory program and other manned space flight techniques. The summary also includes $1.1 billion for space science programs, which have the independent scientific and technical objective of space science exploration to expand our knowledge of space. The 10-year program will include the creation of $2.4 billion in capital assets in launch and tracking and data acquisition facilities which will continue to be an integral part of the national capability to maintain our preeminence in space.

It will be noted that the estimate includes $14 billion associated with the development of spacecraft, launch vehicles, and engines which has already enabled us to make substantial progress toward insuring preeminence in space for the United States. We have emerged from a period in which we were far behind the Russians. We are still behind in manned space flight capability, but we now have a very large capability, and the program has achieved sufficient momentum to move ahead of the Russians in the 1965–67 time period.

For example, the Saturn IB, a two-stage launch vehicle, can place 32,500 pounds in a 100-mile earth orbit. This has the potential capability of placing a space station in earth orbit. The Saturn V will make it possible for the first time to place really large payloads in orbit. It will be capable of placing 250,000 pounds in earth orbit or driving more than 90,000 pounds to escape velocities. With the Saturn V, the United States will possess a powerful and flexible vehicle system capability for a wide range and variety of missions. In particular, the Saturn V will be able to place in orbit a 36-manned space station with supplies for a year. The spacecraft development program will produce a vehicle that will permit an expansive view of the Nation's space capabilities. The command module itself will be the first U.S. spacecraft in which man can live and operate in a shirt-sleeve environment for periods of at least 2 weeks and have sufficient room to carry on normal living patterns.

All of the foregoing, representing an estimated 90 percent of the manned space flight budget, is essential to maintain our preeminence in a competition that is most vigorous and could again place this country in the position of losing its position of superiority.

It has been estimated that some 10 percent of the total decade budget for manned space flight is directly concerned with the actual landing on the moon, and that research and development and manufacture of hardware for this capability does not contribute to our national space posture.

A large portion of this cost is for the lunar excursion module which, while enabling us to make a lunar landing, will in fact contribute significantly to our capabilities outside the earth's atmosphere. It has a considerable structural advantage over spacecraft designed for earth reentry, and a maneuvering capability some 17,000 feet per second of velocity increment in its two stages.

LEM's sensors and guidance system will permit it to leave its mother ship, intercept either a friendly or unfriendly satellite, "land" on the satellite, allow the crew to get out and to inspect, repair, and test the other satellite, then take off and return to the mother ship.

I have outlined above what my philosophy and understanding have been with respect to our national goals in space and what my position has been as chairman of the Aeronautical and Space Sciences Committee.

The Apollo program is being referred to as a lunar program. This is perhaps a misnomer in that 90 percent of the money being allocated for such program provides our Nation with a broad based technology, facilities, and know-how which will be utilized not only to achieve, but also to maintain our preeminence in space.

I would like to add that the Senate Space Committee, consisting of 15 responsible members, spent many long hours considering the NASA authorization budget for fiscal year 1965. In considering the funding for Apollo, the committee did so not with the idea of how much money was to be spent in order to go to the moon, but how much money should be spent in as orderly and economical way as possible to achieve and maintain our Nation's goal to be preeminent in space. In this connection the committee felt that the funds being allocated for the Apollo program represented an effort on the part of this Nation to accomplish such preeminence.

The committee has also been aware that planning should be carried forward with respect to what this Nation shall do in space after Apollo. The committee has made such request and has been assured that such plans are being formulated. The President at the present time has made this request of NASA and of the Space Council and until such plans are formulated and the administration makes its policy known, I do not feel that the committee as such is in a position to

speak to this question although it is continually aware of the kinds of programs now being contemplated.

The committee is also presently arranging for hearings and studies with respect to our national launch vehicle program with a view toward determining the most economical manner in which such a program can be carried out. Naturally, as such hearings progress it will be necessary to take into consideration our Nation's post-Apollo plans.

Mr. President, I am satisfied that after considering NASA's request in light of our Nation's goals in space that the fiscal year 1965 funding when balanced against our total national resources maintains a proper balance that will result in a time schedule capable of achieving national preeminence. It is a well balanced forward moving program being carried out in an orderly manner, and not on a crash basis.

I said earlier that the able and distinguished Senator from Missouri [Mr. SYMINGTON] had conducted the authorization hearings. He did an excellent job. I yield now such time as remains to the Senator from Missouri.

Mr. SYMINGTON. I thank the Senator.

Mr. President, may I ask how much time remains?

The PRESIDING OFFICER. The Senator from New Mexico has 9½ minutes remaining.

Mr. SYMINGTON. I am sure my colleagues realize there was no desire in any way to cut off discussion of the bill.

Since coming to the floor, I have been told there has been some doubt expressed about the military value of this program. An able man who recently left the Air Force, and is now military commentator for Newsweek magazine, Gen. Thomas D. White, said at a dinner upon his retirement that once those who controlled the ground controlled the world. Then it was those who controlled the seas who controlled the world. Today those who control the air control the world. White added, "The one thought I would leave with you tonight is that tomorrow those who control space could control the world."

The Dyna-Soar was considered to be the weapon most important to the future of our position in the space. Dyna-Soar would probably never have been canceled had it not been for the existence of Gemini, the space capsule developed by NASA, which was ready to take the place of Dyna-Soar. In addition, MOL—the Manned Orbital Laboratory—is considered one of the most important development of its kind. If not the most important.

I could not imagine how anyone who had thoroughly studied the subject could fail to realize how vitally important to our national security, aside from any question of say prestige, or weather control is the space program. That is the main thrust of my brief remarks today. Much of it I covered day before yesterday.

As any businessman knows, when one wants a job done, like establishing a line of merchandise, he decides to have it ready on a certain date. If it begins to look as if he is not going to get it by that date he knows the cost will be increased. In business it can be done more easily; but to try to stick to a schedule is infinitely more important in Government, where there is no profit motive, and therefore the chance of loss through waste is so much greater.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a statement entitled "Lunar Landing Date and Pace of Program." This statement replies to observations made this afternoon.

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

LUNAR LANDING DATE AND PACE OF PROGRAM

There are a number of reasons why it is desirable to maintain the present pace of the Apollo program, which calls for the beginning of manned lunar exploration before the end of this decade.

First, a tight timetable on major research and development programs demands incentive and efficiency, contributes to high morale, and requires that the many elements of the program be carried on in a coordinated effort. On the other hand, without a timetable, the work drags on through repeated changes in design, frequently of only marginal importance. As in most other human endeavors, the establishment of a schedule for a research and development program provides assurance that the work will in fact be completed.

At the outset of a program, any number of possible schedules may be relatively equal in desirability. In general, the most desirable schedule is one that is tight but achievable. The work should be scheduled over a relatively short period of time to utilize the most recent technological improvements. And it is clearly desirable to keep the personnel busy once the team has been assembled and to make maximum use of the facilities once they have been constructed.

The time phasing of the construction of facilities, the marshaling of the industrial team and the buildup of personnel must be planned in advance for maximum efficiency. This time phasing depends on the overall schedule of the program.

The Apollo program has been underway for 3 years. Through fiscal year 1964, one-third of the required funding has been appropriated. The government-industrial team of 300,000 people is five-sixths assembled. Most of the required construction is completed or is well advanced. Consequently, any change made in the overall schedule at this time would introduce great inefficiencies and the toal cost would be increased. NASA, at our committee's suggestion, has recently conducted a detailed analysis of the cost of stretching out the Apollo program for 3 to 6 years beyond the present 1970 goal. The increased cost would be about a billion dollars for each year of stretchout.

Looking at it another way, the impact of a budgetary cut in fiscal year 1965 would be to increase the total cost of the program and delay the lunar landing. A cut of 4 percent, or approximately $200 million, would add $600 to $700 million to the total cost of the program and delay the lunar landing 7 to 8 months. A 10 percent cut in fiscal year 1965 would delay the landing up to 2 years. The total cost would then be $2 billion greater. (For chart see pt. 2 of Senate committee hearings, p. 770.)

With respect to technology, even the most difficult development problems involved in advancing the state of the art are yielding to hard work. Landing a man on the moon is not an easy goal, but we know of no technological problem that would prevent our accomplishment of the Apollo program in this decade.

Finally, present knowledge indicates that the environment of space will not prevent the achievement of the Apollo goal on schedule. Neither meteoroids, radiation, nor the conditions of the surface of the moon appear to create insurmountable difficulties. However, as in the Mercury program, man will be committed to space only after all necessary and reasonable precautions have been taken.

In addition to the considerations of economics and technology, national prestige is a factor. The Russians captured the world leadership in space when they orbited the first sputnik in 1957. Achievement of the first lunar landing will restore that leadership to the United States.

It is not possible to state today that we must reach the moon in this decade to beat the Soviets. Neither can it be said that it is not necessary to do so. What can be said, however, is that this decade was selected for the Apollo prorgam, after careful study, because it appeared to be the period in which we could reach the moon with reasonable assurance that we would be first, and in the process could develop the scientific and technical knowledge, industrial base, engineering and launch installations, and worldwide tracking and control networks needed to make our country preeminent in space. There has developed no later evidence to indicate that this decision, recommended by President Kennedy and approved by Congress, is unsound.

Mr. SYMINGTON. Mr. President, if we should not go ahead with the lunar program, as set out in this statement—

A cut of 4 percent, or approximately $200 million, would add $600 to $700 million to the total cost of the program and delay the lunar landing 7 to 8 months. A 10 percent cut in fiscal year 1965 would delay the landing up to 2 years. The total cost would then be $2 billion greater.

These figures are natural if one considers the program on a businesslike basis, because exactly the same thing would happen in the construction of, say, an automobile.

Mr. FULBRIGHT. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 6 minutes remaining.

Mr. FULBRIGHT. Mr. President, I wish to say a few more words by way of summary. The real question concerns a sense of values. What is important for our country at this time in our history? That is the question.

I hope I did not leave the impression that I thought by cutting the program we would get more for education. I realize that educational programs stand on their own feet and must be justified. That is not the point of my argument. I say that the pace of this program is not justified. This is now the crucial point and probably the last opportunity for us to slow down the manned lunar landing program. If we do not do it, and if the Senate refuses to do it, we shall have committed ourselves to put a man on the moon before 1970. I believe that if we take a good look at this project—of course there are only six Senators in the Chamber, and obviously the Senate is not taking a good look at it—we will cut it. I did not say that the money we saved would be given to education.

What I meant to say was that the lunar program does not come ahead of a number of other things from the standpoint of importance. I only used education as an outstanding example. I could name many other activities. I could name research into the oceans. I think that would be much more important than putting a man on the moon. I could name any number of things.

Mr. MORSE. Health, for example.

Mr. FULBRIGHT. Or health. I could name any number of subjects. I did not mean to give the impression that the money saved would be used for education. I would like to see that done, but I realize that that would not be the effect.

I do not quite understand the implication of the remark of the Senator from Missouri when he said that he who controls space controls the world. If this is to be a program to control the world, we had better take another look at it. I do not believe the Senator meant that seriously, when he said that he who controls space controls the world.

President Kennedy, in his last address to the U.N., said that we should cooperate under this program with the Russians, or with the United Nations. Certainly this was a much more sensible approach. The one thing we should not do is try to make this a kind of football game between Harvard and Yale, and say that whoever wins is a great country and will control everything.

This is a scientific exploration in a new environment, to increase the knowledge of man, and it should be one of the lowest programs in priority. There are many others that are higher in priority, in my opinion.

I say again that this is a question of a sense of values, and a question of priorities as to how we shall expend our money.

If we pass the bill as it is, we shall have made a firm commitment—although I wish to go on record as saying that I make no commitment that I will not try to cut it again—to go ahead with it even to the extent of hiring 300,000 men including a considerable portion of the Nation's scientists and engineers. It is all very well to say that we are helping education and doing things for science in furthering this program.

But to say that is a terrible distortion of the life of a great nation. This is not even the most important area so far as education is concerned. We ought to give more attention to problems that confront us today; for example, with reference to keeping the peace, how to make life more bearable, make people healthy, and many other things. All those things should come ahead of the lunar program.

We are asked to increase the House allowance; $5.3 billion is involved, Mr. President. When I think of the tears that were shed over the foreign aid program, which was only half as big as this program, it is incredible to me. The foreign aid program, faulty as it may be, is intended to keep the peace. Here we have a program whose purpose is to make us preeminent in space. Is it more important to be preeminent in space than to be preeminent in intellectual capacity in our society? Why can we not aspire to be the first in fields that might make the earth more habitable, rather than in getting to the moon?

I regret most profoundly that we have made the decision to spend this vast sum of money. The amount involved is a very large portion of the funds available for domestic programs.

It is a great tragedy to make a commitment to spend this kind of money for a crash project.

I believe that one of the wisest actions that I have seen taken by the Russian leader was in relation to this subject when he said, "Let the Americans go ahead. We will learn from their experience." That is certainly much wiser than to go out in front and spend this money in such a profligate manner.

I ask for the yeas and nays.

Mr. MORSE. I suggest that the Senator from Missouri speak and that then we suggest the absence of a quorum, and also ask for the yeas and nays.

Mr. SYMINGTON. Mr. President, in using the word "control" I did not mean this Government would try to control the world. We have probably gone as far in agreement with the Soviet Union for example, on meteorological research and weather satellites as we have in any other effort in which we have joined to improve the climate as a step towards preserving the peace. I am confident the distinguished Senator from Arkansas does not mean he does not care whether or not either the Soviets or the Chinese Communists control the world.

When we talk about its being or not being wrong to make a decision today, that is rather misleading. The decision was made some years ago, by President Kennedy and supported by Congress. It is completely supported today by President Johnson and, I do hope will be supported by the Congress.

If we change the decision already made, the record will show, without question, that it will cost us billions of dollars more to do the job than it would if we went ahead with the program as planned.

Any businessman knows what it means to take his jigs, dies, and tools down, to lay people off, then try to bring them back. This is a program which should be continued as close to schedule as possible.

Finally, we hear a lot of talk about going to the moon. But the testimony of the Director of NASA was conclusive in showing that, even if we did not try to land on the moon, we would have to spend at least 90 percent of the total amount involved in the lunar venture if we are to investigate space at all. Actually, the testimony of one of the two leading scientists under Director Webb, Dr. Seamans, was that we would have to spend 95 percent of that money if we were to investigate space at all.

Putting up "going to the moon" as a target, and then knocking down that target has become quite a sport, but gives a totally unrealistic picture. The only additional cost, so far as going to the moon is concerned, has to do with the development of the LEM capsule.

At this late stage therefore, I do not see why we should add heavy cost to the American taxpayer by changing this carefully planned program, which has been going well.

It is true we could take this money, or any other money in the budget and add more to education, or foreign aid, or to many other programs.

I think we have done well with our aid to foreign countries. Since the beginning of World War II, we have given them $182 billion of the American taxpayers' money. That shows our deep interest in the problems of the people of other countries. But at the same time we should be willing to recognize the importance of this venture, not only for the development of a continuing program in an important field of science, but also from the standpoint of our national security.

The PRESIDING OFFICER. All time has expired.

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

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

Mr. FULBRIGHT. Mr. President, on my amendments, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc, submitted by the Senator from Arkansas. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. PELL (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished Senator from Massachusetts [Mr. KENNEDY]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. MANSFIELD. I announce that the Senator from Ohio [Mr. LAUSCHE], the Senator from West Virginia [Mr. BYRD], the Senator from Pennsylvania [Mr. CLARK], the Senator from Tennessee [Mr. GORE], the Senator from Arkansas [Mr. MCCLELLAN], the Senator from Oregon [Mrs. NEUBERGER], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Tennessee [Mr. WALTERS], and the Senator from Georgia [Mr. TALMADGE] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Indiana [Mr. BAYH] are absent because of illness.

I further announce that the Senator from Mississippi [Mr. EASTLAND], the Senator from Washington [Mr. MAGNUSON], and the Senator from Oklahoma [Mr. EDMONDSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr.

BAYH] and the Senator from Connecticut [Mr. RIBICOFF] would each vote "nay."

I further announce that if present and voting the Senator from California [Mr. ENGLE] would note "nay," and the Senator from West Virginia [Mr. RANDOLPH] would vote "yea."

I further announce that if present and voting the Senator from Pennsylvania [Mr. CLARK] would vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

The Senator from Kansas [Mr. CARLSON] is detained on official business.

If present and voting the Senator from Kansas [Mr. CARLSON] would vote "nay."

The result was announced—yeas 38, nays 42, as follows:

[No. 442 Leg.]

YEAS—38

Bartlett	Fulbright	Nelson
Bennett	Gruening	Pearson
Boggs	Hickenlooper	Prouty
Burdick	Hruska	Proxmire
Byrd, Va.	Javits	Robertson
Church	Johnston	Saltonstall
Cooper	Jordan, Idaho	Scott
Cotton	Keating	Simpson
Curtis	McGovern	Williams, N.J.
Dirksen	Miller	Williams, Del.
Dominick	Morse	Young, N. Dak.
Douglas	Morton	Young, Ohio
Fong	Mundt	

NAYS—42

Aiken	Hill	Metcalf
Allott	Holland	Monroney
Anderson	Humphrey	Moss
Beall	Inouye	Muskie
Bible	Jackson	Pastore
Brewster	Jordan, N.C.	Russell
Cannon	Kuchel	Smathers
Case	Long, Mo.	Smith
Dodd	Long, La.	Sparkman
Ellender	McCarthy	Stennis
Ervin	McGee	Symington
Hart	McIntyre	Thurmond
Hartke	McNamara	Tower
Hayden	Mechem	Yarborough

NOT VOTING—20

Bayh	Goldwater	Neuberger
Byrd, W. Va.	Gore	Pell
Carlson	Kennedy	Randolph
Clark	Lausche	Ribicoff
Eastland	Magnuson	Talmadge
Edmondson	Mansfield	Walters
Engle	McClellan	

So Mr. FULBRIGHT'S amendments were rejected.

Mr. ANDERSON. Mr. President, I move that the vote by which the amendments were rejected be reconsidered.

Mr. MANSFIELD. Mr. President, I move that the motion to reconsider be laid on the table.

Mr. HOLLAND. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD subsequently said: Mr. President, at the time the vote was taken on the Fulbright amendment to reduce the amount in the authorization bill for the National Aeronautics and Space Administration, I had promised to give a live pair to the distinguished Senator from Ohio [Mr. LAUSCHE], who is absent on official business. I would like the RECORD to so show. If the Senator from Ohio [Mr. LAUSCHE] had been present and voting, he would have voted for the amendment. I would have voted against the Fulbright amendment.

Mr. ANDERSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Mexico will state it.

Mr. ANDERSON. Has all time been exhausted now?

The PRESIDING OFFICER. The Senator is correct—all time has now expired.

The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MORSE. Mr. President, I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time on the bill has expired. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered; and the Clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from West Virginia [Mr. BYRD], the Senator from Tennessee [Mr. GORE], the Senator from Arkansas [Mr. MCCLELLAN], the Sentor from Wyoming [Mr. MCGEE], the Senator from Oregon [Mrs. NEUBERGER], the Sentor from West Virginia [Mr. RANDOLPH], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Virginia [Mr. ROBERTSON], the Senator from Georgia [Mr. RUSSELL], the Senator from Tennessee [Mr. WALTERS], and the Senator from Pennsylvania [Mr. CLARK] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE], the Senator from Indiana [Mr. BAYH], and the Senator from Massachusetts [Mr. KENNEDY] are absent because of illness.

I further announce that the Senator from Mississipi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], and the Senator from Washington [Mr. MAGNUSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. BAYH], the Senator from Wyoming [Mr. MCGEE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Connecticut [Mr. RIBICOFF], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Virginia [Mr. ROBERTSON] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] is necessarily absent.

The Senator from Kansas [Mr. CARLSON] is detained on official business.

If present and voting the Senator from Kansas [Mr. CARLSON] would vote "yea."

The result was announced—yeas 78, nays 3, as follows:

[No. 443 Leg.]

YEAS—78

Aiken	Burdick	Dodd
Allott	Byrd, Va.	Dominick
Anderson	Cannon	Ellender
Bartlett	Case	Ervin
Beall	Church	Fong
Bennett	Cooper	Gruening
Bible	Cotton	Hart
Boggs	Curtis	Hartke
Brewster	Dirksen	Hayden
Hickenlooper	McCarthy	Proxmire
Hill	McGovern	Saltonstall
Holland	McIntyre	Scott
Hruska	McNamara	Simpson
Humphrey	Mechem	Smathers
Inouye	Metcalf	Smith
Jackson	Miller	Sparkman
Javits	Monroney	Stennis
Johnston	Morton	Symington
Jordan, N.C.	Moss	Talmadge
Jordan, Idaho	Mundt	Thurmond
Keating	Muskie	Tower
Kuchel	Nelson	Williams, N.J.
Lausche	Pastore	Williams, Del.
Long, Mo.	Pearson	Yarborough
Long, La.	Pell	Young, N. Dak.
Mansfield	Prouty	Young, Ohio

NAYS—3

Douglas	Fulbright	Morse

NOT VOTING—19

Bayh	Goldwater	Randolph
Byrd, W. Va.	Gore	Ribicoff
Carlson	Kennedy	Robertson
Clark	Magnuson	Russell
Eastland	McClellan	Walters
Edmondson	McGee	
Engle	Neuberger	

So the bill, H.R. 10456, was passed.

Mr. ANDERSON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. SYMINGTON, Mr. STENNIS, Mr. HOLLAND, Mrs. SMITH, and Mr. CASE conferees on the part of the Senate.

AUTHORIZATION TO COMMITTEES TO FILE REPORTS

Mr. ANDERSON. Mr. President, I ask unanimous consent that the committees have authorization to file reports.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

ORDER FOR ADJOURNMENT

Mr. ANDERSON. Mr. President, I ask unanimous consent that when the Senate adjourns today, it adjourn until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

MEETING OF COMMITTEE DURING THE SESSIONS OF THE SENATE DURING THE REMAINDER OF THE WEEK

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare, and the subcommittees thereof, may meet during the remainder of the week while the Senate is in session.

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

TRIBUTE TO DR. PETR ZENKL ON HIS 80TH BIRTHDAY

Mr. DOUGLAS. Mr. President, I would like to draw the attention of my colleagues to the recent birthday of one of free Czechoslovakia's great leaders. On June 13 Dr. Petr Zenkl celebrated

his 80th birthday. Dr. Zenkl is a man of uncommon spiritual, intellectual and physical strength. His long life has been directed toward helping the people of Czechoslovakia to create a free nation in which they can live in dignity and pride. At the age of 80, having lived in peril and exile most of his adult life, Petr Zenkl is still involved, through the Assembly of Captive European Nations, in the struggle to which his life has been dedicated.

For the eighth son of a poor Bohemian tailor to train himself for university while working to support the family of 10 was early evidence of an indomitable character. While at Charles University in Prague, he quickly assimilated the nationalism that was agitating the Hapsburg Monarchy in its dotage. Later, as a teacher and leader of opinion, Zenkl was instrumental in encouraging the use of the Czech language and in stimulating a popular involvement in community welfare. He insisted upon independence for the Czechs and Slovaks at the end of World War I when the Dual Monarchy disintegrated, and his work to inspire national pride and responsibility helped to bear fruit in the peoples' enthusiasm for the new republic.

During the difficult period of reorganization at the close of the war, Zenkl served in the Ministry of Social Welfare. Thereafter, he served the citizens of Prague for 25 years, culminating his municipal service as Lord Mayor (Primator) of the city. In this post he proved his extraordinary abilities in administration and city planning. His essential concern for human welfare showed up continually in the emphasis placed upon social services, medical facilities, housing, and education. The Masaryk homes for the aged, the orphaned, and the handicapped people of Prague became a widely studied model of institutional excellence.

The effectiveness of Dr. Zenkl's welfare programs aroused the ire of the Communists who could not tolerate seeing the people's needs being met by a democratic government. Communist promises for social and economic betterment were being fulfilled without class warfare and without "dictatorship of the proletariat." Perhaps Zenkl's basic belief that citizens will support a government which they know to be based on social justice and compassion for all people can be said to have been a key to his success.

During the 1930's Dr. Zenkl entered national politics and served in the government of President Benes. These years were difficult beyond measure as the leaders struggled to maintain the integrity of their party in the face of opposition from both the Nazis and the Communists.

The sacrifice of Czechoslovakia to Hitler's greed must have come as nearly a mortal blow to Zenkl whose antipathy for any totalitarian government had kindled his respect for the Allies and his hopes for the League of Nations. It was not long before the Gestapo called on him, and Dr. Zenkl left Prague for 6 years in Buchenwald. Why he survived can only be explained by that indefatigable will and faith that democracy would ultimately prevail.

The Communist takeover of Czechoslovakia, after this nightmare of enslavement from the other enemy, was a grotesque irony. It is a tragedy that has not passed. And still Petr Zenkl fights for a more just destiny. Suffering can turn a man to bitterness and despair or it can reinforce his faith and will. The suffering of the Czechoslovak nation is Petr Zenkl's pain. But there is no room for despair in the heart of a man or a nation with such a love of freedom. On this birthday his friends and admirers all around the world salute his affirmative spirit and thank him for his brave and victorious life.

TRUTH IN LENDING

Mr. DOUGLAS. Mr. President, I invite attention to a very interesting article which appeared in the Wall Street Journal for Wednesday, June 17. It calls attention to the great increase in private debt in this country and points out that 21 percent of the income of the average American family goes to repay debt and interest upon debt. It also points out that approximately half of all families are not in debt. Therefore, the average amount of income spent by the families who are in debt for repayment and for interest is somewhere between 30 and 40 percent of their total income.

As Senators know, for years I have been urging that those who borrow should be told the real costs of the money which they borrow or the debts which they incur. I believe that information would furnish a warning signal to many that would enable borrowers and buyers to compare the costs of varying types of credit and to shop around for more economical credit.

The truth-in-lending bill, which I have sponsored along with 18 other Senators has been before the Congress now for slightly over 4 years. Yesterday it received a decided setback when the Committee on Banking and Currency, by a vote of 8 to 6, recommended it to the Senate Subcommittee on Production and Stabilization. It must be frankly admitted that in all probability there is a relatively small number of working days remaining in this session of the Congress. But I, as chairman of that subcommittee, shall loyally try to clean up some of the technical problems which may be still involved. While I am very regretful of the decision which the Senate Committee on Banking and Currency has taken, I remember a saying of old Andrew Foruseth, who was head of the Seamen's Union. At the masthead of his journal he carried the phrase, "Tomorrow is also a day."

Mr. President, I do not intend to quit the fight. I intend to keep on. I hope that the American people and the American Congress will recognize the need for full disclosure of the costs of consumer credit.

I ask unanimous consent that the article from the Wall Street Journal to which I referred be printed at the conclusion of my remarks.

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

[From the Wall Street Journal, June 17, 1964]

WORRY OVER DEBT: SOME ECONOMISTS FEAR SOARING CREDIT VOLUME IS THREAT TO ECONOMY—THEY SEE PUBLIC'S CLIMBING DEBT DEEPENING A SLUMP—ARE RISKIER LOANS RISING?—PESSIMISTS STILL IN MINORITY

(By Alfred L. Malabre, Jr.)

Is there a slow-ticking time bomb at the heart of the Nation's mightiest business expansion?

Some economists suspect there is. They represent only a minority, but the nagging questions they raise are heard more often.

The nub of their worry is the debt people owe—debt that grows faster than income year after year.

On average, more than a fifth of the after-tax income of American families is eaten up by interest charges and repayments, or "servicing," on installment loans and mortgages. The table below traces the fast rise of this debt commitment.

	Average family income	Average debt service	Debt service as percent income
1951	$4,420	$620	14
1955	5,090	870	17
1959	5,940	1,107	19
1963	6,720	1,397	21

Debt fueling of prosperity, as the record shows, has flourished through expansion and recession during most of the post-World War II era. Consumers pay a little cash and borrow heavily to buy a house, a car, a TV set, a refrigerator. Increasingly of late they have added to the list such items as college tuition and trips abroad.

The credit-expanded buying power enables them to purchase more of all these things, and the economy reflects the jobs and profits that supplying these goods and services creates.

DEBT LOAD GROWS

But, as the prosperous postwar years roll by, interrupted only by minor recessions, the debt load grows ever larger. And the question becomes more frequent: Is debt reaching a dangerous level?

No one knows, of course. "We're in uncharted waters," says an economist who keeps close tabs on debt at the Commerce Department. Nevertheless, history offers some indications.

Though figures of the sort contained above aren't available prior to World War II, a roughly similar yardstick can be used. This compares total private noncorporate debt with gross national product, or the Nation's overall output of goods and services.

The following table pinpoints where this debt-to-GNP ratio stands now and sketches its postwar climb. It also shows the ratio in prewar 1939 and in 1929, just before the great depression. Figures in the first two columns are billions.

	GNP	Debt	Debt as percent GNP
	Billions	*Billions*	
1963	$585	$378	65
1945	214	55	26
1939	91	51	56
1929	104	72	69

People had relatively little debt at World War II's end, of course. Has the buildup

since been getting back to normal? If prewar 1939 is taken as normal, we have long since passed it. If roaring 1929 was normal, we haven't reached it—not quite.

Other indications that debt may be nearing a dangerous level come from those economists who are concerned over today's general credit situation.

Because, as the first table shows, the debt payment load of American families averages 21 percent of income, "a substantial number of families are in debt right up to the hilt," estimates Alan Greenspan, president of Townsend-Greenspan & Co., a New York City economics consultant firm.

MANY HAVE NO DEBT

Studies show only half of American families have any installment debt at all, Mr. Greenspan and other economists observe. Therefore, these analysts reason, the debt payment load of many families must be far higher than the average for all families.

"Many families—perhaps some 6 million—now have at least 40 percent of their yearly income committed to debt payments," reckons Mr. Greenspan. And a full quarter of the Nation's 60 million families, he estimates, have at least a third of their income committed to servicing their debts.

Mr. Greenspan concludes that "there's little question we're approaching levels of effective debt capacity" above which many families would find it hard to take on further debt and, at the same time, keep up their repayment schedules.

A pressing concern: The use of mortgage loans for nonhousing purposes, such as for a car, boat, stocks or even a trip to Europe. "There is conclusive evidence that people are using mortgage loans for purposes that have nothing to do with homes," asserts Avram Kisselgoff, chief economist of Allied Chemical Corp., who has made detailed studies of debt trends. "This obviously can't go on, because it tends to exhaust assets on which further borrowing can be done."

The rise of mortgage borrowing for purposes other than the purchase of a new home is suggested by some Government statistics. For instance, nonfarm family housing starts totaled some 1.5 million units last year, only 4 percent more than 4 years earlier. Yet the net rise of mortgage debt on nonfarm family homes was $15.7 billion, a full 19 percent more than the corresponding 1959 increase.

Most mortgage borrowing, it is worth noting, entails relatively small monthly payments extended over very long repayment periods.

Lengthy repayments, of course, provide one means by which debt-burdened consumers can take on additional obligations at minimum extra monthly expense. However, further debt increases through this avenue are limited because, as an economist at the National Bureau of Economic Research puts it, "terms have already been stretched about as far as they can go."

Because the debt burden of so many families appears so near what Mr. Greenspan terms "effective capacity," further debt increases probably will be limited approximately to further rises in consumer income, many analysts predict. And they warn, parenthetically, that since so much of the economy's recent growth apparently is debt-fueled, a slowdown in debt would tend to curb the overall rate of business expansion.

Besides their concern over the considerable amount of debt millions of families owe, many economists express deep worry about the quality of debt now outstanding.

SEE UNDUE RISK

They contend that much of the debt that pervades the current economy entails undue risk. Behind their doubt over the quality of debt is what they regard as an excessive amount of funds available for borrowing.

Gilbert M. Haas, a New York economic consultant who has grown particularly pessimistic about the course of business, puts it this way: "The record amount of funds seeking investment dwarfs the actual number of sound investment outlets available." Mr. Haas says these "excessive" funds are now pouring into such "essentially nonproductive facilities" as real estate, and, in effect, are triggering many building projects that are "completely unwarranted by demand."

Mr. Haas believes the hour for corrective action—in the form of more stringent monetary policy by the Federal Reserve Board—already has passed. And he claims that when the "credit bubble" bursts—within the next year or so in his opinion—the ensuing economic collapse may well be "worse than 1929."

To be sure, few economists share this degree of gloom. But a surprising number—perhaps more than a third of some 50 analysts interviewed in recent weeks—express grave concern, though few admit as much publicly. This is because, as one corporate economist explains, "such pessimistic statements wouldn't be appreciated" by top management.

DAY OF RECKONING

"We're making loans we wouldn't have even looked at a couple of years ago," concedes the financial vice president of a large New York insurance company. "I'm very much afraid we'll soon be caught in a day of reckoning."

Says an official at a Connecticut bank: "The grim joke around our shop right now is that we're planning to enter the business of renting autos and appliances—with all the goods we'll be repossessing one of these days."

Why, if they are so skeptical of the quality of their loans, do such institutions continue to make them?

"Competition" is the reason given by the Connecticut banker. A Chicago economist adds: "With so large an amount of lendable funds available, institutions must make riskier, longer loans to afford the high interest rates they pay depositors; the alternative is to quit competing for depositors."

Only half jokingly, the economist adds: "Perhaps that wouldn't be such a bad idea." New York's Mr. Greenspan bluntly asserts that "many loan officers are being forced to act against their better judgment."

Debt alone, even if its quality is badly eroded, won't actually trigger any economic collapse, most of these analysts agree. As Mr. Greenspan remarks, "Debt only becomes a problem after something else turns the economy down."

IMPACT OF A RECESSION

The fear is that the economy, which is in the midst of a record expansion, is becoming dangerously vulnerable to even minor setbacks. "So long as income continues to increase, the high debt level shouldn't cause much trouble," says a national industrial conference board official. "The trouble starts when we have a recession."

Henry Kaufman, economist of Salomon Bros. & Hutzler, a New York-based securities firm, observed in a recent study that large amounts of debt in the economy "make any economic setback extremely dangerous." He explained this is because when consumer income declines, as it does in recessions, the margin by which it covers debt service falls proportionately even faster.

Allied Chemical's Mr. Kisselgoff concedes that the ratio of delinquent bank loans to loans outstanding is presently "very low"—a fact often cited by those who say debt isn't out of line. But this ratio "will shoot up very quickly if we get into any recession," he warns. "The economy is very much more vulnerable now than in the early postwar years, when debt was low."

Mr. Greenspan believes that "many debt holders couldn't take much of an income decline before they would run into real trouble." The economist, whose views fall roughly between the pessimism of Mr. Haas and the high optimism of the Johnson administration, believes that "a recession of the 1957–58 variety probably wouldn't be quite enough to set off a real crisis."

However, anything more severe would, he feels. And, if the present debt climb continues at anything like the current pace for another 5 years or so, even a recession of 1957–58 magnitude could bring on a serious economic crisis, Mr. Greenspan predicts.

EYE ON PERSONAL INCOME

The 1957–58 recession that Mr. Greenspan uses as a yardstick lasted only 9 months, 1.5 months less than the average length of all four recessions of the postwar era. Moreover, in the 1957–58 setback, personal income—the economic measure economists worried by debt watch warily—dropped a mere 0.3 percent, far less than the average decline of 1.2 percent for all four postwar recessions.

Few economists concerned by the debt situation share Mr. Haas' view that the opportunity for corrective action has been missed. But, almost to a man, they agree that the Federal Reserve should act now to tighten up on credit.

This tightening could take various forms, such as a boost of the so-called discount rate Federal Reserve banks charge borrowing member banks, an increase in the amount of reserves member banks are required to keep on hand to back up deposits, or other monetary measures aimed at draining existing "free" reserves from the banking system. Some analysts expect, if the Fed does act soon to tighten credit, the move will entail a combination of steps.

"It's most important that the Fed tighten up," says Mr. Greenspan. "Such action is already overdue, but I don't think it's too late yet" for action.

The Fed, of course, never announces its monetary plans beforehand. Nevertheless, a high Government official close to the Fed concedes it is "clear the credit situation requires careful watching and may call for action" soon.

If the credit situation is as dire as many economists say, why hasn't the Fed already acted?

Some analysts flatly charge the Fed is under intense political pressure from the Johnson administration to defer any restrictive action until after the November presidential election. Action now, of course, would tend to slow the rate of business expansion, at the very least, and this could cost the administration many votes. In theory, the Fed is free to act without direction from the administration, and most Government officials insist this is precisely how it does act.

Defending the Fed's no-action policy, one Government official says he is "not prepared to accept the idea of Mr. Haas and some others that a catastrophic economic collapse" is growing out of the debt situation. He cites, among "vital differences" between the current situation and before the 1929 collapse, the fact that stock market credit appears not nearly so excessive today and that mortgage debt amortization provides a continuing flow of cash to institutions, as mortgages are paid off piecemeal, rather than in lump sums, as was frequently the case in 1929.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum. It will not be a live quorum and there will be no vote.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREWSTER. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

A NATIONAL ECONOMIC CONVERSION COMMISSION

Mr. BREWSTER. Mr. President, during my 4 years of service on the House Armed Services Committee, I became concerned with the economics of national security. The economy of my own State of Maryland is heavily dependent upon defense contracts. On Monday morning, the Committee on Commerce resumed hearings on S. 2274, introduced by Senator McGOVERN, to establish a National Economic Conversion Commission.

I have consistently supported programs and appropriations designed to maintain a ready and superior defense posture. But I have become convinced that we must continually reexamine defense programs and needs and must plan for gradual shifts in our economy.

Mr. President, since 1941, the United States has spent more than $900 billion in defense of our Nation during war and peace. None would deny the importance of our defense programs. During the past two decades, Congress has been more than favorably disposed to administration appeals for defense funds. Indeed, on several occasions, Congress has appropriated more money than requested.

These vast expenditures over many years have had profound effects upon our economy. In 1963, approximately 10 percent of our gross national product derived from Federal defense expenditures. The Arms Control and Disarmament Agency has estimated that jobholders in defense industries account for about 9 percent of all U.S. employment. Expenditures for national security have become so much a part of our economy in recent years that every major shift in defense spending has had significant economic effects.

As we know from past experience, defense outlays vary in response to the state of international affairs. In fiscal year 1945, defense spending reached a wartime high of $79.8 billion; by fiscal year 1948, it had fallen to $11.1 billion; and in fiscal year 1953, it was back to $43.7 billion. Since that time, national security expenditures have fallen and risen again.

Recent developments have injected new hope for a détente in the cold war. A lessening of world tensions could mean significant reductions in our defense spending.

Naturally, we long for the fruition of our efforts at achieving a measure of genuine world peace—not only because lasting peace would obviate the necessity for currently large defense budgets, but also because it would be, I believe, the only real national security for us all.

Former Deputy Secretary of Defense Roswell Gilpatric has said:

> Unless some currently unforeseen change takes place in the nature of military threats which the Nation faces, we do not see the need * * * for a recurrence of the rapid increase in defense spending that has been necessary in the last 3 years. Instead, we anticipate a relatively stable overall budget, but with conditions which would create economic problems for certain industries that would then have to find alternative, nondefense, uses for their resources.

Because of the hopeful but as yet uncertain nature of the world situation, we must face the question of conversion to nondefense production in many industries.

Accordingly, I am pleased to cosponsor Senator McGOVERN's proposal to establish a National Economic Conversion Commission.

As I see it, our enormous defense expenditures have had three general effects on our economy.

First. The high level of taxes necessary to support these defense programs has depressed investment by and within the private and business sectors of our economy.

Second. Valuable manpower, training, talent, and skill, which could have been more usefully employed in other areas, have been devoted to research and development in defense industries.

Third. The fluctuations in defense investment caused by the constantly changing world situation have created economic uncertainty which has contributed to postwar recessions in 1949, 1954, and 1958.

It is my feeling that controlled reduction of defense spending would encourage private investment, would redirect valuable manpower and brainpower to more useful work, and would restore stability to our economic growth.

I emphasize that reduction of our defense expenditures must be carefully planned. It seems to me that savings in defense cutbacks could either be spent by the Government or returned to our citizens in the form of tax reduction.

If retained by the Federal Government, defense funds could be reallocated for expanded Federal programs to attack poverty, combat disease, and raise our standard of living.

If returned to the taxpayers in reduced taxes—and in general I favor this alternative—these funds would stimulate consumer spending, would increase private investment, and would lead to more leisure time and a shorter workweek.

In short, Government and private business must be relied upon to absorb labor and productive capacities displaced by conversion from defense production.

The readjustment accompanying economic conversion will involve three major problems:

First. Many firms—especially smaller ones—now engaged in defense work will not be able to diversify sufficiently to convert to nondefense production. Wherever possible, such firms should be assisted in retooling; but we must be prepared for the loss of perhaps many companies unable to effect the necessary changes.

Second. Many hundreds of thousands of workers now employed in the defense industries will have to be retrained for new positions. In addition, the closing out of many onetime defense firms will dump more thousands of workers into technological unemployment. Federal aid should be planned to assist retraining for these workers.

Third. In many such cases relocation of plants, equipment, and labor will be required. Federal involvement in related programs of housing, school and hospital construction, and urban renewal, is certain to follow.

While readjustment never is easy, thoughtful planning can make it smoother. This would be the purpose of a national conversion commission.

Within recent months, and in my own State, Baltimore has become the first major city to establish its own economic conversion commission. The authorization for the commission calls for the study of "various ways and means of facing this basic and essential shift in our economy without suffering severe economic dislocations."

I urge the creation of similar commissions in all major industrial areas where defense contracts are important to local economic welfare. But the Federal Government—which after all is responsible for the dilemma—must be willing to assist local efforts.

The National Economic Conversion Commission proposed by Senator McGOVERN would be authorized only to report to the President and to the Congress on our conversion capabilities, to convene a National Conference on Industrial Conversion and Growth, and to consult with State and local officials in a coordinated effort to improve our conversion competence.

It seems to me that we can do no less in planning to meet the inevitable problems which conversion will surely present. To accept these problems now as challenges and opportunities may spare us from succumbing to them later as the consequences of our own myopia and inaction.

Mr. President, an article in the June 1964 edition of Nation's Business entitled "Peace Trend Will Bring Better Business," by Prof. Charles T. Stewart, discusses in depth and in detail defense production and conversion.

It is an interesting and, I think, an important discourse.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

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

PEACE TREND WILL BRING BETTER BUSINESS—CUTTING BACK DEFENSE SPENDING AND RECHANNELING BRAINPOWER WILL SPUR LONG-RUN ECONOMIC GROWTH

(By Charles Stewart)

If the tensions of the cold war continue to fade, American businessmen can look forward to new opportunities for their companies, even those engaging in the multibillion dollar network of defense contracting.

To some, this might at first seem puzzling or even unacceptable. For years, with heavy industrial reliance on Government procurement for defense, many people have come to consider Federal contracts an essential prop for business. After all, defense dollars generate orders and orders generate jobs.

This is true. It is equally true that a cutback in spending for military hardware will have the immediate effect of disrupting corporate plans, scaring investors, eliminating jobs and even reducing the short-run profits of entire industries.

But, over the long run, a shift away from dependence on defense contracts can mean greater economic growth for the Nation than it would otherwise experience.

Certainly nuclear test ban agreements, continued talks on disarmament and desires for stepped-up East-West trade would seem to be turning the world more toward peace than away from it.

The rechanneling of more money and brainpower into the civilian economy will stimulate a variety of industries from household appliances to industrial machinery. It will also shift talents now concentrated on defense to university faculties and industrial research laboratories to produce the ideas and products of tomorrow.

The fact is that a heavy commitment to defense spending has not been good for our economy. It has diverted resources and skills from productive investment and much-needed civilian research and development. Our standard of living is lower than it would have been. The high taxes used to support our military effort have further discouraged investment.

Contrast the modest economic gains of the United States and the United Kingdom, both saddled with large defense commitments, and the spectacular rates of investment and economic growth of Germany and Japan.

Moreover, the wide variations in the amount of defense spending have hurt many industries, areas, and individuals. The outbreak of the Korean war cut short the 1949 recession. But cutbacks at the end of that war and in the 1957–58 period contributed to the recessions of 1954 and 1958.

Congress is now considering legislation to set up a commission on national economic conversion. If established, such a commission would be charged with making recommendations for Government programs and policies together with suggestions for both public spending and private investment as well as new use of people and facilities now engaged in defense work.

An existing Cabinet-level committee has been at work for several months, reviewing and coordinating existing Federal programs that will be affected by increased conversion from military to civilian effort.

Lynn A. Townsend, president of Chrysler Corp., said recently: "The silliest myth in the folklore about our economic system is the all-too-prevalent contention that our powerful and creative free economy needs massive transfusions of defense money to stay healthy and grow.

"As a businessman associated with a company that holds a substantial number of defense contracts, I can say that I and my associates are going to work just as hard as ever to whittle down our costs so as to bid successfully for just as much defense business as we can get. But we are not going to complain about cutbacks in defense expenditures that can be achieved without weakening the total military strength of the Nation."

ADJUSTING TO REDUCTIONS

All present evidence indicates that the trend in defense procurement will continue down, not only in relation to total production, but in actual dollars. Since Korea total defense spending has fluctuated between 9 and 10 percent of the Nation's output of goods and services. The President's budget estimates a $1 billion decline in defense spending for fiscal 1965, as economy measures take hold, and as vital weapons systems are completed. Even so stanch a supporter of military preparedness as Representative CARL VINSON, chairman of the House Armed Services Committee, foresees a $10 billion decline in the total by 1970.

What will this mean?

Reduced spending for defense should release resources and income to satisfy a great number of nondefense wants, both private and public. From a national standpoint, the only reason to fear cutbacks is that a reduction in production, jobs and incomes in the defense industry will snowball.

What does the record show on this count?

Declines in total national production in the years of massive defense cuts at the end of World War II and of the Korean war were smaller, not only percentagewise, but in actual dollars, than the reductions in defense spending. There was no snowballing effect.

And the defense effort now is not 40 or 45 percent of national output, as it was at the World War II peak, but only 9 percent. So there is no reason to believe that the economy's fate hinges in any significant way on maintaining present high levels of defense spending.

The drop in defense expenditures will be gradual, modest in amount in any future year and announced far in advance. Timely information and a better understanding of how our economy functions will not only prevent snowballing, but can in fact dampen the effect even within the defense industries. The total purchasing power, both of businesses and households, can be maintained and private expenditures sustained.

PART OF GENERAL TREND

The completion of vast systems for nuclear defense and the easing of world tensions coincide with a downward trend in many other Federal programs.

Expenditures on agriculture and agricultural resources, at a peak of nearly $7 billion in fiscal 1963, are expected to decline below $5 billion in fiscal 1965. Foreign aid is clearly headed lower.

Increased expenditures are proposed on natural resources, urban renewal and community facilities, health, labor and welfare, and education. These programs are all tiny, however, when measured against the massive size of the defense establishment, which accounts for more than half of total Federal outlays. The only program which in any way might compensate for defense cutbacks is space research and technology. But increases here will not be sufficient to cancel out declines in military spending.

Two points should be made about anticipated boosts in Federal spending other than for space:

1. A large share of these expenditures does not involve the purchase of goods and services but payments to individuals and State and local governments.

2. The types of expenditures involved, whether direct or induced by social security and other welfare payments, do not correspond to the industry concentration, the skill mix or the regional distribution of defense cutbacks.

Even if existing Federal programs were accelerated or expanded they would not directly absorb the labor and productive capacity released by defense cutbacks. What they would do is sustain or raise private buying power. This is the only job which the Federal Government can do, whether through higher nondefense spending, further temporary or permanent tax cuts, or Federal Reserve policies easing credit and lowering interest rates (or, more likely, through a judicious combination of all three approaches).

Thus, reliance must be placed on consumer and business capital spending to absorb labor and productive capacities displaced by conversion from defense production.

LOWER TAXES FORESEEN

Part of the payoff of reduced military spending will accrue to consumers through lower taxes. Sectors of consumer demand which have been growing include college education, recreation, medical care, and (in the years ahead, with big increases in marriages) housing, furniture, and household equipment. The home market for office equipment has hardly been tapped. Repair services could use a lot of innovation, investment, and upgrading. Home air conditioning, second cars, second homes are expanding markets.

These industries will likely reap much of the benefit of defense savings. But it is hard to predict what new consumer products and services will result from the redirection of research and managerial skills from military to civilian markets. Certainly new or greatly improved products will be important in consumers' added purchases, as they have been in the sales of development-minded companies for years.

Many firms will feel the need for expansion as household purchases grow. Other businesses in the machinery industry, for instance, will be forced to invest in modernization to compete with converted defense firms. Business tax cuts will raise profit prospects and investment funds. The opportunities for new materials and new machinery and equipment in the construction industry are vast. Transportation of all types is ripe for innovation.

Some Government programs are likely to grow: Education and health, possibly urban renewal, urban mass transport, depressed area aid, and conservation. The mere reduction of jobs, research funds and graduate fellowships in defense-related areas should improve the quality of education and medical care. Too much of our best brainpower has been going into defense-related areas; some will shift to other college specializations and employment. Medical schools have been hard pressed to maintain an adequate number and standard of applicants, and teaching at all levels has suffered in both quantity and quality through the competition of better-paid defense research and procurement employment. Some aerospace industry resources can be converted to designing and producing new urban mass transit systems, whose completion will generate private and local government construction booms.

There may be a closer correspondence between such civilian spending and defense spending in demand for products and skills than between Federal nondefense and defense spending, but the difference in these respects—and in regional impact—will still be large.

There is no question about the willingness of families and individuals to spend nearly all their increased incomes if defense cutbacks lead to further tax cuts. Evidence of consumer satiation, such as more income saved or an increased desire to sacrifice income for leisure, simply does not exist.

Likewise, State and local governments seem willing to spend to the limit of their resources.

The big question mark is business investment spending. Even here, doubts have been exaggerated by thinking of such investment only as plant and equipment spending, ignoring two large and growing forms of intangible business investment—training and research and development. Still, steps must be taken to insure that we will have the fiscal and monetary policies and the business climate conducive to expanded business investment.

JOBS WILL REQUIRE MOVING

In addition to Government measures to sustain private purchasing power and spending, substantial geographical relocation of production and retraining of labor will be required. The problems here include individual adjustment, via migration, retraining, and income maintenance in the interim period; industry adjustment—finding new markets, developing new products; and community adjustment—creating or at-

tracting new job openings (and not necessarily in manufacturing, where employment prospects are not bright in the near term).

The impact on defense industries and defense workers is a different and serious matter. It will not be easy to convert modern weapons factories to production of civilian goods. Nor will it be easy for the military technician or the aerospace industry worker to find another suitable job.

Defense production is highly concentrated in a few industries. The aerospace industry is more than 90 percent committed to defense; electronics and ship construction are over half defense related.

Defense production predominantly comes from specialized plants whose facilities are not suitable for conversion to civilian products and whose location is often inappropriate for successful competition in commercial markets. Many of the leading defense contractors are highly specialized in military markets; defense-space orders in fiscal 1962 constituted more than three-quarters of total sales for Lockhead Aircraft Corp., North American Aviation, Inc., and several other large firms.

The priorities in military technology and production—high reliability, fine tolerances, early delivery achieved at the expense of unit costs—are quite different from those needed for commercial success. It is not surprising that attempts of defense contractors at diversification have met, at best, qualified success. In fact, diversification has generally taken the form of penetrating additional military and space markets, rather than civilian markets. But in the past there was no urgency in reducing dependence on a single final purchaser and efforts in this direction were modest. Today the situation is different and results may be better. North American Aviation has diversified into computers and nuclear energy. Douglas Lockheed and other aerospace firms are seeking new footholds in civilian markets.

WHAT ABOUT FACILITIES?

Plant and equipment highly specialized for military production is less of a problem to defense prime contractors than it seems, for most such facilities are owned by the Federal Government, not by the company which operates them. Where they cannot be readily converted, diversification must take the form of mergers or investment in plant and equipment for civilian markets.

Many firms cannot diversify; they are too small and their managements and technical staffs far too specialized. Small firms in electronics and related industries have had a high turnover because of tremendous rates of technological change which can quickly leave a forerunner one day in the backwash the next, and for lack of managerial and especially marketing skills. Even for large firms specializing in military products, marketing is a weak spot. But by and large, the aerospace and electronics industries have the dynamic and innovating leadership needed for survival in a technologically revolutionary and uncertain market.

Litton Industries and General Dynamics are spectacular examples of growth and diversification.

A recent study by James McDonagh (Grumman Aircraft Engineering Corp.) and Steven Zimmerman (Newark College of Engineering) of the diversification potential of the airframe industry concluded that at best the alternative civilian markets which could be developed would employ less than half its current labor force. Prospects for electronics are much better, since its defense and space commitments are smaller, and many new and growing civilian markets are in sight.

Labor in defense production is also highly specialized. Many skills have no counterpart in the production of civilian goods, or the alternative civilian demands for them are far below their current supply. Defense plants have a rising proportion of nonproduction workers, who often outnumber production workers. Particularly notable is the concentration of scientists and engineers, and their supporting technicians. About half of all research in industry is financed by defense and space funds.

Research not connected with defense and space programs undoubtedly has been retarded by the siphoning of scarce talent into military projects. But commercial research and development will not absorb all the technical and professional workers released from defense industry, even where the skills are transferable. Scientists and engineers cannot expect to maintain the price commanded by their recent scarcity, once the seller's market for their specialties ends.

Defense scientists and engineers, however, are younger than the average in other industries. In fact, the entire labor force in defense production is younger and better educated than the average, and therefore more adaptable, and better suited for job conversion. It is also more mobile geographically; the labor force in the great defense concentrations of the Far West and Southwest consists in great part of postwar migrants. Thus adjustment problems for defense labor are quite unlike those facing the middle-aged, poorly educated, immobile coal miners and textile workers of the East.

THE GEOGRAPHICAL IMPACT

Defense workers may adjust by migrating to civilian jobs elsewhere. Firms may close down defense plants in one community and expand civilian operations elsewhere. This could hit some communities hard, for defense production and employment is highly concentrated. California, Connecticut, Arizona, Colorado, Utah, Washington, Kansas, and New Mexico are all dangerously dependent on military expenditures. Yet the record of past defense cutbacks in some of these areas is encouraging.

In Wichita, for example, unemployment actually went down following cutbacks in the aircraft industry in 1962.

According to the Office of Economic Adjustment of the Defense Department, the unemployment rate in Wichita dropped to 3.5 percent last September from a peak of 5.5 percent the winter before.

"A progressive civic leadership, and experienced and productive labor force, a high educational level, sound finances, excellent utilities and a good educational system oriented to training displaced employees" helped considerably in the adjustment, the Office of Economic Adjustment says. Contributing to the economic accommodation in Wichita was success in attracting such new businesses as a Coleman Co. water heater plant, and Lear Jet, an executive jet aircraft manufacturer; and an expansion of established companies, such as Abbott Chemical Co. Retail sales went up 4 percent last year, bank clearings up 6.9 percent and postal receipts up 6.5 percent, the Defense Department study shows.

Examples of hardship in Los Angeles, to cite another example, have been hard to find.

Despite substantial layoffs in the ordnance, electronics, and aircraft industries in the Los Angeles area, unemployment rates have not varied much.

In February 1963 employment, in these main industries that make up the aerospace field was 342,100. The unemployment rate was 5.5 percent of the work force. In March 1964 (the latest figure available) employment was down to 333,300. But the unemployment rate was the same—5.5 percent, according to the official statistics of the California Department of Employment.

Apparently the displaced aircraft workers found jobs readily enough; the real impact was on others, less skilled and less experienced, who had adequate employment opportunities until forced to compete with displaced aircraft workers.

The lesson from these and other experiences is, first, that large, diversified cities are inherently less vulnerable to major shifts in industrial activity than smaller cities overly committed to a narrow range of industries and skills. It does not follow that diversification is a possible or desirable policy for most communities; only a sizable city can find it economically feasible.

Second, even small cities with a skilled labor force, with good public services, and with vigorous community leadership can take in stride adjustments which floor other communities.

Some communities refuse to give any thought to adjustment, apparently on the theory that by rendering themselves helpless hostages to defense procurement or basing, by maximizing their vulnerability and the loudness of their protests to Congress, they can indefinitely postpone the inevitable. But, by and large, decisions on force levels and procurement are not tied to such considerations. Other communities whose defense business is indirect are simply not aware of their involvement.

These problems are with us now. Not all of them will be solved. Some communities and some firms will not make it. These are the casualties of progress. But the payoff is indisputable, and well worth the cost: mobilization of more of our best human and material resources for satisfying current civilian wants, and release of a large share of our research and development resources for nonmilitary economic growth.

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

The PRESIDING OFFICER (Mr. BREWSTER in the chair). Without objection, it is so ordered.

WINDFALL FOR MONOPOLY

Mr. NELSON. Mr. President, I am pleased with the decision of the Senate Subcommittee on Irrigation and Reclamation to hold hearings July 8 on the Westlands Water District contract. The subcommittee has before it a question whether to give prior authorization to spending $157 million to construct water distribution and drainage systems to benefit privately owned lands in California's Central Valley, before owners of vast excess holdings declare their willingness to comply with acreage limitation law entitling them to receive the benefits of the expenditure.

The Nation has been contributing heavily to the development of western water resources for more than 60 years, and many benefits are visible. However, compliance with national policy requiring wide distribution of the benefits from vast public expenditures for reclamation is a matter of serious national, as well as local, concern. As an evidence of national concern, I ask unanimous consent to insert in the RECORD the St. Louis Post-Dispatch editorial on June 15, 1964, entitled "Windfall for Monopoly," relating to Westlands contract in California's Central Valley project.

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

WINDFALL FOR MONOPOLY

Before the end of the summer a Federal bonanza will be reaped by large corporate landholders in California at the expense of small family farmers there unless either the Senate or the House raises an objection meanwhile.

Lying before Congress for the required 90 days is a contract submitted by Secretary of the Interior Udall under which corporate land baronies would in effect be exempted from the acreage limitation law in the so-called Federal part of the San Luis irrigation project, an adjunct of the Central Valley project on the Sacramento and San Joaquin Rivers.

This law limits land eligible for Federal reclamation water to 160 acres for an individual, 320 acres for husband and wife. It has been the fundamental safeguard against monopoly of water in the water-deficient Western States since 1902. It has prevented speculators from exploiting the rising values of land in Federal reclamation projects. It has assured, in the words of the U.S. Supreme Court, that benefits from the Federal investment "may be distributed in accordance with the greatest good to the greatest number of individuals."

Secretary Udall does not propose to breach directly the mandate of Congress requiring application of the acreage-limitation law to the 496,000 acres of the San Luis project which his department will administer. But the means he has adopted would achieve that effect by indirection.

He proposes to execute a contract for Federal construction of the irrigation distribution system with Westlands Water District, which will operate it, even though corporate holders of lands in excess of the acreage limitation have not agreed to dispose of their excess acres as required by the limitation law and have declared they will not do so.

If the contract is executed, they will share indirectly in the Federal irrigation water which Congress has by law forbidden to them. Of the water which the Federal Government is to supply to Westlands annually the larger part will be used for surface irrigation but as much as a fourth can be expected to percolate into the ground-water reservoir.

This reservoir underlies the entire area. Corporate landholders can then pump from it the federally reclaimed water as freely as those entitled to it by law. Pumping from ground water is the common method of irrigation thereabouts.

The so-called State part of the San Luis project already stands exempted from the acreage limitation through an evasive device put over by Gov. Pat Brown with the support of two of the largest landholders, the Southern Pacific Railway and Kern County Land Co. The State is to share the cost of the total project with the Federal Government, in return for which it is allowed to abrogate Federal acreage law on that part of the area designated as the State's.

It is estimated that in the so-called Federal part of the San Luis project the Federal Government will invest $1,000 an acre and provide an additional subsidy in interest-free money amounting to another $1,000 an acre. This would provide a windfall for holders of excess and ineligible lands conservatively estimated at $360 million, of which an estimated $65 million would accrue to Southern Pacific alone. In the so-called State area, Tejon Ranch Co. holds 168,000 acres, Standard Oil Co. 218,000 acres, Kern County Land Co. 343,000 acres—and these are only the largest among many.

Two years ago Father Vizzard of the Catholic Rural Life Conference put this issue in human terms about as well as it could be put: "It would be tragic if by action of this administration the door should be opened wide to increased and more tenacious land monopoly in California. It would be impossible to explain to those who are convinced that the family farm and not land monopoly deserves support of public policy." Will not enough Members of Congress to reject the Udall contract stand up and say the same?

TAX EXEMPT STATUS FOR THE FELLOWSHIP OF RECONCILIATION

Mr. NELSON. Mr. President, it gives me satisfaction to announce that the Internal Revenue Service has at long last come to its senses and restored tax exempt status to the old and widely respected Christian peace group, the Fellowship of Reconciliation.

The decision has been delayed beyond all reason, but then reason has not been the strong point of the IRS in this sad affair.

You will no doubt recall the revocation ruling issued January 10, 1963. It surely will stand as some kind of benchmark in the dismal history of bureaucratic arrogance. In revoking a tax exemption enjoyed by the fellowship since 1926, the ruling letter said in part:

> You have operated for a purpose that is political in character * * *. We believe it is clear that your principal purpose is the prevention of war and the abolition of armaments.
>
> * * * * *
>
> Resolving international controversies is a political purpose, not a charitable or religious purpose * * *. This is an objective that can only be obtained by legislation.

What can we make of this bureaucratic jargon when we compare it with the late Pope John XXIII's great peace encyclical—a document which reaffirms the essentially religious nature of mankind's quest for peace. Surely Pope John would have been disappointed to learn what the IRS thought of such efforts.

This nonsense posed a very real threat to religious organizations in this Nation, and indeed to the very principle of free religion. For, as the Christian Century magazine put it in a March 1963 editorial:

> There is not a church in the United States which does not seek at least indirectly to influence legislation. * * * [Must] every organization which influences opinion be penalized by loss of its tax status?

Although the favorable decision issued by the IRS today does not discuss the religious validity of the pursuit of peace directly, perhaps out of a sense of shame, it does state:

> The purposes [of the FOR] are charitable within the meaning of the section 501(c)(3) [of the Internal Revenue Code]. It is our conclusion that [its] operations have been in furtherance of those purposes.

Even if those words do not amount to an open retraction of the IRS's earlier absurdities, I think they can be looked upon as a victory in the continuing fight to keep America free and open to ideas.

The tale of delay upon delay to which the fellowship has been subjected in seeking a reversal of the indefensible revocation order deserves to be at least briefly told.

After widespread criticism, including acid commentaries by many newspapers, a carefully reasoned statement by 26 outstanding clergymen of the major faiths, and the appeals of Senators KEATING, MCGOVERN, and myself, the Service agreed in May 1963 to reconsider the case and reach an "expeditious decision." That speedy decision has taken only a scant 13 months to materialize.

Since May 1963 the fellowship has held repeated conferences with IRS officials, supplied reams of information, and has been repeatedly tantilized by promises of a favorable decision just around the corner.

In October 1963, the fellowship was informed that the IRS was satisfied that the fellowship met the "operational tests," and that its exemption would be restored "very shortly."

In December my office was told that the decision was about ready and would be issued "early in the new year."

In late January the date for the decision was set at March 1.

In mid-March fellowship officials were assured that it would be in their hands "within 2 weeks."

On April 15 it appeared that the only thing lacking was the signature of an official then in Panama. On April 22 we were told that it was just a matter of days. And then in mid-May, a full year after the promise of an expeditious decision, the IRS was encouraging the fellowship to look for the decision "in a couple of weeks."

The fellowship, formed in England in 1915 and extended to America in 1916, is a movement of Christian protest against war. Its headquarters are in Nyack, N.Y. Operating on meager annual budgets, it has spoken out vigorously for its ideals for many years. Its National Advisory Council includes some of the great names in American religion: Dr. George Buttrick, of Union Theological Seminary; Dr. Harry Emerson Fosdick, of Riverside Church, New York City; and Dr. Martin Luther King, of Atlanta, Ga., and Prof. Kenneth Scott Latourette of Yale University Divinity School.

I believe that the Fellowship of Reconciliation and its director, Alfred Hassler, deserve the thanks of all of us in carrying on this long fight.

Mr. President, in conclusion, I would like to point out how shocking it is when an agency caught in an inexcusable blunder, as the IRS was in this case, stalls and equivocates rather than admitting openly its mistake. Mistakes are human and inevitable. Bureaucrats who refuse to admit that their organizations can make mistakes only add to that public distrust of the Federal Government that is such a serious problem today.

ADJOURNMENT

Mr. NELSON. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 2 o'clock and 44 minutes p.m.) the Senate

adjourned, under the previous order, until tomorrow, Thursday, June 25, 1964, at 12 o'clock meridian.

NOMINATION

Executive nomination received by the Senate June 24, 1964:

Santos Buxo, Jr., of Puerto Rico, to be U.S. marshal for the district of Puerto Rico for the term of 4 years. He is now serving in this office under an appointment which expired March 9, 1964.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JUNE 24, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Psalm 128: 1: *Blessed is everyone that feareth the Lord; that walketh in His ways.*

O Thou God of all majesty and holiness, inspire us during this moment of prayer with a reassuring sense of Thyself for Thou art a presence to strengthen and sustain us, a light to guide and direct, a sympathy to comfort and cheer, a love that will never fail or let us go.

May we become more fully aware of the sanctity of our tasks and responsibilities and may we be courageous in meeting the demands and decisions which challenge the best and noblest that is within us of mind and heart.

Grant that in these perilous times when our national and international problems seem so complex and difficult, our President, our Speaker, and our chosen representatives may see clearly that as finite and fallible human beings we were never expected or meant to meet those problems unaided and alone for Thou hast made available and placed at our disposal the inexhaustible resources of Thy grace.

Hear our prayer in Christ's name. 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. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 6041. An act to amend the prevailing wage section of the Davis-Bacon Act, as amended; and related sections of the Federal Airport Act, as amended; and the National Housing Act, as amended; and

H.R. 9740. An act to establish the Roosevelt Campobello International Park, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4364. An act to provide for the free entry of one mass spectrometer for the use of Oregon State University and one mass spectrometer for the use of Wayne State University.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10433. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1965, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HAYDEN, Mr. RUSSELL, Mr. BIBLE, Mr. BYRD of West Virginia, Mr. MCGEE, Mr. MUNDT, and Mr. YOUNG of North Dakota to be the conferees on the part of the Senate.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10532. An act making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies for the fiscal year ending June 30, 1965, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ROBERTSON, Mr. MCCLELLAN, Mr. MONRONEY, Mr. BARTLETT, Mr. PROXMIRE, Mr. HAYDEN, Mr. JOHNSTON, Mr. CASE, and Mr. ALLOTT to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House of Representatives to the amendment of the Senate numbered 6 to the bill (H.R. 221) entitled "An act to amend chapter 35 of title 38, United States Code, to provide educational assistance to the children of veterans who are permanently and totally disabled from an injury or disease arising out of active military, naval, or air service during a period of war or the induction period."

The message also announced that the Senate recedes from its amendments numbered 3 and 4 to the above-entitled bill.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 502. An act to preserve the jurisdiction of the Congress over construction of hydroelectric projects on the Colorado River below Glen Canyon Dam; and

S. 2370. An act authorizing maintenance of flood and arroyo sediment control dams and related works to facilitate Rio Grande canalization project and authorizing appropriations for that purpose.

TO PERMIT THE VESSEL "SC–1473" TO ENGAGE IN THE FISHERIES

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, I have asked for this time for the purpose of making an announcement with respect to the program.

Mr. Speaker, I should like to advise the House that on tomorrow the gentleman from South Carolina [Mr. RIVERS] has advised that he will ask unanimous consent to call up the bill (H.R. 6007) to permit the vessel *SC–1473* to engage in the fisheries.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The SPEAKER laid before the House the following communication:

IN THE SENATE OF THE UNITED STATES,
June 23, 1964.

Ordered, That the Secretary of the Senate request the House of Representatives to return to the Senate the bill (H.R. 10456) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and administrative operations, and for other purposes," together with all accompanying papers.

FELTON M. JOHNSTON,
Secretary.

The SPEAKER. Without objection, the request of the Senate is agreed to.

There was no objection.

PERMISSION TO FILE REPORT ON RELATED AGENCIES APPROPRIATION BILL FOR FISCAL YEAR 1965

Mr. GARY. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight Thursday, June 25, 1964, to file a privileged report on the foreign assistance and related agencies appropriation bill for fiscal year 1965.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. RHODES of Arizona. Mr. Speaker, I reserve all points of order.

GRANT TO PURDUE UNIVERSITY

Mr. ROUSH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROUSH. Mr. Speaker, Purdue University in Lafayette, Ind., has been named by the National Aeronautics and Space Administration as the recipient of a grant of $840,000 to finance construction of additional laboratory and rocket-firing facilities at its jet propulsion center.

The jet propulsion center at this great Midwestern university has been engaged in aerospace research for the past 17 years. It has pioneered in solving problems related to liquid bipropellant rocket motors operated at high combustion

pressures. The current activities of this center include investigation in a broad area of aerospace propulsion.

I consider this another step toward the realization of the potential the Midwest has to offer in space age development activities. This goal, the full realization of Midwest potential, has been and will continue to be one of my personal goals.

We have made gains toward this goal but there is still a long distance to go. Two years ago I played a part in the establishment at Indiana University of the Center for Industrial Application for Space Technology. It is designed to make available to industry the vast amount of knowledge gained in space research, knowledge which has industrial applications in other fields besides that of space.

This was a pilot project for the United States. Its value is attested by the fact that two other centers are being established at Wayne State University in Detroit and at the University of Maryland. Another is authorized for the University of Pittsburgh and still another is under consideration for the University of North Carolina.

My efforts to obtain for Indiana and the Midwest a just share of Government-financed activities have been called parochial by some. I might add these critics are not from Indiana or the Midwest. I challenge that criticism. Our Nation cannot afford not to use every tool and resource at its disposal. It has not been doing so in Indiana and the Midwest. It is starting to do so. I am certain the steps that have been taken are only the first of many which will provide new job opportunities, stimulate business growth, and add to the economic health of my section of the Nation.

CONSTITUTIONAL AMENDMENT ON APPORTIONMENT

Mr. HUTCHINSON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HUTCHINSON. Mr. Speaker, on June 23 I introduced House Joint Resolution 1050 proposing an amendment to the Constitution to read as follows:

> The judicial powers of the United States shall not be construed to extend to any suit in law or equity for the apportionment or method of apportionment of representation in a State legislature or either house thereof, nor for the composition of any legislative or administrative body in any political subdivision of a State.

The Congress has a duty to submit an amendment for ratification by the States without undue delay, in order to save our form of Government.

The Supreme Court of the United States was never vested with power to dictate the governmental structure of any State in the Union, and its present-day assertion of such power is manifest error on its part. The Court must be led out of the political thicket into which it has strayed. The Congress must initiate this important and fundamental action.

Once before in our history, soon after the adoption of the Constitution, it was necessary to limit the judicial power in order to save the Federal character of our system. The result then was the 11th amendment, and the proposal I have introduced follows that amendment in form.

It is pertinent to point out, Mr. Speaker, that the Federal judiciary was not conceived to be an instrument of political power. Here is a branch of Government not chosen by the people, nor at any time answerable to them. Federal judges are appointed by the President, with the advice and consent of the Senate, for good behavior, which is life. They can be removed by impeachment only for treason, bribery or other high crime or misdemeanor. It is a fact of history, supported by a fair reading of the Constitution, that political power in our system was designed to be vested in the people and their elected representatives. Federal judges are not those representatives. The resolution of political questions is not their perogative, nor in their rightful power.

THE BOBBY BAKER INVESTIGATION

Mr. GROSS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GROSS. Mr. Speaker, disclosure yesterday that State's Attorney Arthur A. Marshall, of Prince Georges County, Md., has made public a call girl's list of names, allegedly including past and present Members of Congress, again brings into focus the Bobby Baker investigation.

On this list, and previously mentioned in connection with the Baker scandals, is the name of Joseph Fabianich, alias Joe Fabian, now serving a 9-year Federal prison sentence for operating a call-girl ring in the Washington area.

This is the same Fabianich who was recently and suddenly spirited out of a nearby lockup to the more inaccessible Fort Leavenworth prison. This also recalls the speedy action with which Elly Rometsch, the German call girl, was deported from this country when the Baker scandals broke last fall.

It is time for Congress to drag this mess from under the rug, and let the chips fall wherever they may.

BRITISH FIRMS INDICATE HESITANCY TO SELL TO CASTRO'S CUBA

Mr. ROGERS of Florida. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS of Florida. Mr. Speaker, the recent news of the sale of British buses to Cuba serves as a good indication that Great Britain has little intention of cooperating with U.S. policies to halt free world trade with Castro and strangle his economy. Not only does the British Government persist in allowing British manufacturers to sell to eager and hungry Castro, but it continues to allow British ships to relieve the Russian supply burden by hauling cargo to Cuba.

The Leyland Motors' recent deal to sell Castro buses was accompanied by a rather unusual report that Leyland Motors would not see the deal through if so asked by the British Government.

It would be easy for the British Government to halt this particular sale, and many others like it, as most of the British firms trading with Castro avail themselves of the "payment insurance" provided by the Government's Exports Credit Guarantee Department. The only step necessary would be to curb export guarantees for Cuban shipments. No other action need be taken, as most of Britain's major banking houses are leery of financing sales to Castro because he is already an estimated $238 million behind in deficits coming from his need to import more than he can produce.

Despite his difficulties, Castro's trade with Great Britain is on the rise, with Castro having bought $8.4 million in goods from Britain during the first 4 months of this year, as compared to some $2.8 million for the same period last year.

Mr. Speaker, Castro's economy is suffering, and his only hope is to continue to trade with the free world as the Communist bloc alone cannot keep him supplied. Britain could do much to hasten Castro's end by halting its trade with him. It could start with stopping the Leyland bus deal.

WHITE HOUSE JET FLEET

Mr. LATTA. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LATTA. Mr. Speaker, I take this time to wonder aloud about the high cost of maintaining the jet fleet for the convenience of the President of the United States and his official family when they travel about the country on official or semiofficial business. Everyone in the House knows that the President has a number of jets assigned to the White House and no one usually questions their number and the cost of maintaining them. Everyone wants the President of the United States and his family to have the best that the taxpayers of the Nation can buy. I am not questioning this today. However, I am wondering aloud if the taxpayers—some of whom are not of the President's political faith—are paying the cost of transporting the President and the members of his official family in these jets to political functions—particularly to political fundraising functions such as the $100 a plate Democrat dinner the President will be attending in Detroit on June 26. Cer-

tainly the taxpayers should not be asked to pay the cost of this trip when the already full and overflowing treasuries of the various Democrat committees will be enriched by thousands upon thousands of dollars due solely to the President's appearance at this affair.

I think it is incumbent upon the "free press" to keep the Nation informed on such matters and I will be waiting to read the stories revealing payment by the Democrat committee for this Detroit and similar trips during this campaign year.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. ROBERTS of Alabama. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may be permitted to sit during general debate while the House is in session this afternoon.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 165]

Ashbrook	Harding	Rogers, Tex.
Avery	Healey	Roosevelt
Baring	Hoffman	Schadeberg
Bass	Ichord	Scott
Bennett, Mich.	Kee	Senner
Bolling	Kilburn	Sisk
Bow	Kilgore	Springer
Bruce	King, Calif.	Staggers
Buckley	Lankford	Steed
Cameron	Long, La.	Thompson, N.J.
Davis, Tenn.	Miller, N.Y.	Toll
Diggs	Morton	Tupper
Dingell	Pilcher	Tuten
Evins	Pool	Willis
Forrester	Powell	Wydler
Green, Oreg.	Randall	
Hall	Reid, N.Y.	

The SPEAKER. On this rollcall, 385 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

URBAN MASS TRANSPORTATION

Mr. O'NEILL. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 732 and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3881) to authorize the Housing and Home Finance Administrator to provide additional assistance for the development of comprehensive and coordinated mass transportation systems in metropolitan and other urban areas, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Banking and Currency now in the bill and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendment as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions. After the passage of the bill H.R. 3881, it shall be in order in the House to take from the Speaker's table the bill S. 6 and to move to strike out all after the enacting clause of said Senate bill and to insert in lieu thereof the provisions contained in H.R. 3881 as passed by the House.

Mr. O'NEILL. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. BROWN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 732 provides for the consideration of H.R. 3881, a bill to authorize the Housing and Home Finance Administrator to provide additional assistance for the development of comprehensive and coordinated mass transportation systems in metropolitan and other urban areas.

The resolution provides for an open rule with 4 hours of general debate, making it in order to consider the committee substitute as an original bill and all points of order are waived on this bill.

Mr. Speaker, I know of no legislation that will be before this Congress this year that is as important as this legislation, particularly if the Members, as I do, come from a metropolitan area.

This is an opportunity for us to clean up our antiquated transit systems that have been in existence since long before the beginning of the century. This is an opportunity for us to be able to move those elevated structures that we have in the old cities of America. This is an opportunity to clear up blighted areas. This is an opportunity to revitalize very important property, the beautiful property that has gone into blight in the major cities of this Nation.

During the course of the years we have spent in this Congress over $50 billion on road programs, yet we have spent nothing whatsoever as far as trying to pass a mass transportation bill concerning our local elevated or railroad systems.

H.R. 3881 is the administration's mass transit bill which provides partial Federal grants to improve bus service, commuter rail lines, and other mass transit systems in and around our towns and cities. The Congress has been strongly urged to act on this measure by both the late President John F. Kennedy and by President Lyndon Johnson. There are six major features of the committee bill.

First. Federal grants would be authorized for up to two-thirds of that part of the cost of facilities and equipment that cannot be financed by revenues alone. Local grants in cash would be required for the other one-third. This is the same formula used under the urban renewal program. Revenues from the transit system would pay for needed new investment to the extent possible, but the margin of total cost which cannot be financed this way would be covered by these Federal and local grants.

Second. To assure that the Federal assistance will accomplish the objectives of the bill, strict planning requirements are provided for, including the preparation of an areawide transportation plan as a part of comprehensive planning for the development of the urban area. The bill also recognizes the urgency of this problem and the heavy cost of delay in a further provision that for a 3-year period the grants could be made on an emergency basis but with reduced Federal participation. These grants would be for only one-half of the net project cost, but the additional one-sixth Federal grant would be available if full planning requirements are met within 3 years of the date of the grant agreement.

Third. The bill authorizes appropriation of $500 million in Federal grant funds over a 3-year period—$100 million in the first year and $200 million in each of the succeeding fiscal years. Because of the long leadtime in programs of this kind, the budget impact in the first year that funds are appropriated is estimated at only $10 million. The bill also would restore the unused balance of the $50 million loan authority provided by the Housing Act of 1961. Approximately $47 million remains of this authority.

Fourth. The bill would continue and, in fact, improve the effort to find new and better ways to meet our mass transit needs by providing that $10 million of each of the 3 fiscal year installments can be used for research, development, and demonstration grants replacing the present limited demonstration program created in 1961.

Fifth. An adequate relocation program would be required for families displaced by assisted projects. Federal grants for relocation payments to families, individuals, and business concerns would be authorized similar to those in effect under the urban renewal program.

Sixth. The committee bill also includes provisions to protect the rights of employees of local transit systems affected by the program.

Mr. Speaker, it is my opinion that unless legislation of this type is passed by this Congress there is no possibility that we can improve the antiquated systems that we have in the metropolitan areas at the present time. I know in the local area I represent, I know of no bill more important to the district than the present bill that we have up for consideration today. We have a downtown area in the city of Boston where we have a viaduct that was built in the 1890's right through

the most valuable property in the city of Boston. This is an opportunity with the aid of the Federal Government to tear down such a structure, to relocate the transport lines and to beautify the city. Such legislation would bring a tremendous revaluation of city property. We cannot possibly do this all alone, if our local transportation system runs a deficit, if we in the cities and towns through real estate taxes must make this up. We need Federal assistance not only in Boston. Every major city in the United States needs Federal assistance, and this is a bill that will do the job.

Over the years we have spent over $50 billion on our road program, for what purpose? Building overpasses over these viaducts, building underpasses under these viaducts. We have wasted more money building cloverleafs and things of that nature than we would need to take care of the mass transportation bill, which, in my opinion, is going to amount to billions in the course of years and will amount to more and more and more if we do not start it now.

Mr. Speaker, I hope the rule is adopted.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Iowa.

Mr. GROSS. Why in all conscience have points of order been waived on a bill of this nature?

Mr. O'NEILL. I presume there is legislation in the bill that is subject to points of order or the committee would not have asked for that provision. The gentleman will have to ask the gentleman from the Committee on Banking and Currency about that, as to why he asked for it.

Mr. GROSS. Can the gentleman state why points of order were waived? I will ask the gentleman from Texas. His name appears on the report. I would prefer that he answer it.

Mr. PATMAN. There is a traditional phrase used when these things come up.

Mr. O'NEILL. Does that answer the gentleman's question?

Mr. GROSS. That is not much of an answer, I may say.

Mr. O'NEILL. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 3881, as amended by committee amendment, has been kicking around in the House of Representatives since February of 1863–1963. Well, it is about that old, about 100 years old, the idea that somehow you can get someone else to pick up the check for that which you should do yourself. In any event, this measure has been before Congress in one form or another for a long time.

As to what this bill actually provides, and we might as well be frank and honest about it and understand the situation, is to permit the camel to get his nose under the tent, to spend $500 million in the next 2 or 3 years, primarily in deciding what rundown, ramshackle property can be foisted off on the Federal taxpayers by communities, or by transportation systems, or by private owners, that has proven a failure under the present conditions.

I was not surprised when my good friend, the gentleman from Massachusetts, a member of the Rules Committee, for whom I have great affection, frankly stated he was in support of this bill, because it would be of especial benefit to his own home community, to his own home State, for he told us the transportation system in his own city was antiquated, was worn out, was not now operating on a sound financial basis.

Of course, knowing as most of us do, and I believe the gentleman from Massachusetts will agree, that Boston has a splendid municipal government, it is hard to understand how anyone can believe that if a sound, economical government, such as exists in the city of Boston, or any other large city, cannot operate the transportation system it presently owns on an economic basis, on a sound financial basis, the Federal Government can come in and do so.

Of course, the real idea behind this bill is that the Federal Government, if it takes over or loans the money for the community to take over transportation facilities, in the end, whatever the loss may be in the operation of such facility, Uncle Sam, which means you and I and all the taxpayers in our districts, who will not be benefited by this legislation, will be picking up the tab and paying the cost thereof.

I know it sounds well, and perhaps it is a bit of a dream, or perhaps a bit of an ideal to talk about running a subway from Portland, Maine, down to Miami, Fla., or something of that sort, or extending subways, or renovating them, or making new commuter train services pay when private ownership has been unable to make such systems pay.

But I have news for some of you folks, and that is that they invented a few years ago a thing called an automobile, and you are not going to get people to ride a subway or a commuter train if they can drive an automobile in decent weather. It does not make much difference how much money is spent, or how much is siphoned out of the Federal Treasury, it is on borrowed money and this whole program will be financed, if it is started—on borrowed money for your great-grandchildren yet unborn to pay. In spite of the great prosperity we are enjoying today, the greatest in the economic history of any country, we are still engaging in deficit financing and are still going out and borrowing money, and adding to our national debt, just as we did when we again lifted the debt ceiling just Thursday of last week, so as to continue to borrow money at a time when we are more prosperous than we have ever been in all history. To do what? To finance new expensive spending programs such as this.

This program may be good. Perhaps someone can convince everyone that it is a proper thing to do and perhaps not. I doubt it, for I think it will be difficult to convince the average-thinking American that it is a good thing to do this on borrowed money.

If we had a balanced budget, and if we were meeting our operating expenses of Government, and if we had a surplus, it would be one thing to talk about this new program. But when you are putting a new program like this on top of all the other big spending programs, and when we were going further into debt, and three times in the last calendar year alone we increased the national debt limit, so the Government can borrow more and more money to pay for these costly experiments in state socialism, that is a different thing.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman.

Mr. O'NEILL. The gentleman made a remark about the city of Boston. The mayor of the city of Boston is considered by all to be one of the outstanding mayors in the United States and last week he received an honorary degree from Harvard University. He was the first mayor to receive such an honorary degree in over 60 years.

Mr. BROWN of Ohio. I agree with the gentleman on that.

Mr. O'NEILL. The transportation we have in our areas is under the jurisdiction of a quasi-public authority and has nothing to do with the city of Boston. All the cities and towns in the area pay the expenses and make up the deficit in the cost of operation. What I had in mind was this. That through the Nation these small feeder lines that feed into the mass transportation systems in the metropolitan areas are folding up and failing every day. Unless we do something for these small companies that feed into the mass transportation lines, you are going to pay for roads just as you have paid over $50 billion in the last 10 or 12 years, and you are going to have to pay billions and billions of dollars more. Now is the time to stop this tremendous expense that we would have on roads and we could do it by starting a program of mass transportation and public utility systems.

Mr. BROWN of Ohio. Do I understand that the gentleman is against the Federal highway program? I did not expect that.

Mr. O'NEILL. The gentleman knows me better than that. But think of the savings we can bring about as I have explained by avoiding the expense of building viaducts over highways and underpasses beneath the viaducts. We have wasted a great amount of money doing that and all these cities could save that money.

Mr. BROWN of Ohio. I regret that I cannot yield further to my colleague as I am short of time now. But I am glad to have my good friend join the economy bloc. We embrace you; for we love you. We respect you very much.

I should like to call your attention to the fact that I did not say anything critical of your organization or officials in your home city or home State. Instead I praised them.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I cannot yield further at this time. I praised them.

I wish to say, again, this is just the camel's nose under the tent. The actual cost will be at least $20 billion to $40 billion, judging from all the testimony we received, and this will not even scratch the surface.

Of course, a lot of people in this country would like to sell their rundown property to the Federal Government, or to some municipality, or to some agency of government, whatever it might be—if they can get Federal money, because they want to get off the hook.

Nevertheless, we are not going to change human nature by any legislation which is enacted here. This is another one of those wonderful programs, those ideals—perhaps another beautiful dream—which in the end will be most expensive and take us one more step deeper into a great national debt which may soon mean the bankruptcy of this country. It will, undoubtedly, if deficit giveaway is continued. This is a part of a general program of always financing new projects through the selling of Federal bonds and adding to our national debt. That is what it will mean.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Iowa.

Mr. GROSS. Am I correct in assuming that most of those who are so enthusiastic for this bill will be as enthusiastic in support of the foreign giveaway bill, the $3½ billion that is proposed to be given to foreign countries? How can the taxpayer of this country continue to finance the annual multibillion dollar foreign giveaway program and initiate new and costly programs such as this?

Mr. BROWN of Ohio. I cannot answer that question, except to say that some people vote for every spending program that comes along, while others feel they have some fiscal responsibility to the people back home.

Mr. GROSS. How about the question of waiving points of order on the bill? Is that not a good reason to vote against the rule?

Mr. BROWN of Ohio. Perhaps the reason why the points of order are to be waived is because "they" had the votes to do so in the Rules Committee.

Mr. SCHENCK. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. SCHENCK. I have received many letters from employees of railroads urging me to support this bill on the basis that it will assist the railroads in protecting their positions. I wonder if the gentleman from Ohio can tell us how that might occur.

Mr. BROWN of Ohio. I doubt very much that under the present bill there would be any real help to any employee of the railroads, and certainly there would not be any permanent help.

Let me say to the gentleman that I live in a community only some 35 miles by rail from Cincinnati. I can remember the old days, when we had what were called commuter or accommodation trains. We had as many as 30 trains a day going into Cincinnati, and 30 trains coming back, and nearly everyone rode these trains. Today a person cannot get any train to stop to take him into Cincinnati, because everybody now rides in automobiles.

Perhaps we should not let our friends on the east coast know it, but there are a lot of people throughout the country who are riding automobiles today, or traveling in airplanes, and so very few interested in commuter trains or in subways, and will not be.

Let me predict the American people will continue to build highways and to drive automobiles, until perhaps some other vehicle which is more convenient may be invented.

I can point to Cincinnati again, as an example in my own State. They built a subway there several years ago. By the time they got the blooming thing built, they found it could not operate efficiently and the people did not want to use it. But it is down there, just as good as new. So if you need a new subway in Boston, you should get in touch with the officials of Cincinnati, for they might give it to you at a cheap price. You might be able to get a good bargain.

I can point to other cities in the United States, and to examples in other countries, where it has been proved that a lot of train commuter service and so on sounded mighty enticing, and very good, but did not work out.

There is a mass transportation problem, as everybody recognizes in some large cities. Some cities like Cleveland, Ohio, have been solving it on their own. After all, it is a local responsibility and not a national responsibility, to take care of transportation problems in a local community.

That is what we are trying to do out in Ohio, if we are permitted to do so, and are not taxed to death by the Federal Government to support programs of this type in other sections of the country. We have a way of meeting our own obligations through State and local government, rather than appealing to the Federal Government for whatever we may want, or, thinking that somehow or other there is a magic source from which the Federal Government gets the money paid out of our Treasury here in Washington. There is no such magic source. Every penny spent by the Federal Government is first paid into the Treasury either in the form of taxes earned the hard way by American citizens too often, or it represents borrowed money which our children and great grandchildren yet unborn will have to pay off.

It is just possible, gentlemen of this House, that the children of tomorrow and of the future tomorrows may have some problems of their own to meet when these debts we are now incurring, because we have failed to meet our own obligations in our own time in our own way, finally fall due. If any charge can be made in history—and it will be made, in my opinion—against the present generation, it is that we have failed to meet our own responsibilities but have found an easy way, or thought we did, to enjoy, not only our own income, but to have our children's children yet unborn pay part of the freight for us. Personally, I am opposed to that, and I think the House of Representatives should be opposed to it. I hope they are.

Mr. SCHENCK. Mr. Speaker, will the gentleman yield further?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. SCHENCK. It is my understanding that the gentleman from Ohio feels there would be no advantage to any of the employees of the railroads?

Mr. BROWN of Ohio. I do not think there will be any permanent advantage. Of course not. Some workers may drive to work in automobiles, temporarily, or for a little while, if they start up a new commuter system, but that system will not last long.

Mr. SCHENCK. I thank you very much.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. O'NEILL. Mr. Speaker, I yield such time as he may desire to the gentleman from Oklahoma [Mr. ALBERT].

Mr. ALBERT. Mr. Speaker, I rise in support of this rule and in support of this bill, a bill which has been strongly recommended both by President Kennedy and President Johnson as being urgently needed in the national interest.

I desire also to commend the great Committee on Banking and Currency for the work that it has done on this matter and for the excellent committee report in which it points out both the magnitude of the problem and the need for the program recommended to solve it.

Before proceeding, Mr. Speaker, I would like to take just a minute to pay a word of tribute to the distinguished author and manager of this bill, the distinguished gentleman from Alabama [Mr. RAINS], not only for the work that he has done in reference to this legislation but for the brilliant, constructive, and progressive record he has written in this House over the years. His voluntary retirement is a great loss to this Nation. I commend him, as we all do, for his dedicated service and his remarkable accomplishments.

Mr. Speaker, I have been privileged, as have most Members of the House, to see, over the past several years, the spectacular population growth in the Washington metropolitan area. We have seen large areas surrounding our Nation's Capital change from open space to sprawling suburbs. Accompanying this tremendous expansion, for miles beyond the borders of the District of Columbia, has been a spectacular increase in the number of automobiles in the area. With this has come increasing traffic congestion and a considerable lengthening of the time of the daily journey-to-work and other travel. This is not only the travel from suburbs to downtown Washington but within the city, and between the many large and growing suburban centers surrounding the Capital City.

We are a rich and prosperous Nation. Our affluence is no accident but the product of a form of government that encourages the healthy competition of free enterprise. This has made possible the tremendous growth of our automotive industry, spurred on in large part by the restless temperament of our people who

want, and are willing and financially able, to pay for the privilege of mobility.

We have encouraged this desire of our people to use their automobiles. We have, as a Nation, devoted a large share of Federal, State, and local resources to building magnificent highways that make mobility possible. The Federal Government alone has expended and earmarked more than $20 billion for the building of the urban highway portion of the interstate highway systems, in addition to an annual expenditure of about $250 million for other urban highways. In carrying out these programs, I think our highway industry must be commended for a most significant contribution to the development of our urban areas.

The transportation problem of our urban areas cannot, and should not, be blamed on this increasing reliance of our people on the automobile. While the investment of Federal funds for highway improvements has encouraged the use of the automobile, virtually nothing has been done to give our people a reasonable choice between private and public transportation. This is the gap that the pending mass transportation bill would help to fill. Without a choice, traffic congestion will inevitably increase and our cities will increasingly lose their economic vitality.

Shortly after taking office, President Johnson faced this problem. In his message on housing and community development he said:

> Efficient transportation systems are essential to our urban communities. Each local system should be tailored to its particular needs—existing and prospective—and the proper mixture of good highways and mass transit facilities should be developed to permit safe, efficient movement of people and goods in our metropolitan centers.
>
> A matching grant mass transit program along the lines proposed by the administration was approved by the Senate last year (S. 6) and reported favorably to the House by its Committee on Banking and Currency (H.R. 3881). I urge early enactment of the mass transit program as basic to the development and redevelopment of our Nation's cities.

Just last week at the dedication of the new rapid transit system in the San Francisco Bay area, the President said:

> We must develop adequate alternative means of transportation or the coming crisis of congestion may do more to frustrate the growth and development of America than all the burning deserts and barren mountains which stood in the path of our ancestors a century ago.

I have listened to the argument that the urban mass transportation problem is not one for the Federal Government but is purely a local problem. This argument is false and futile. It ignores the indisputable fact that the economic strength of our urban areas is of vital importance to the economic welfare of our Nation. Our urban areas generate the preponderant part of the Nation's gross national product and produce a disproportionately large percentage of our Federal taxes. If we are to preserve a continuing healthy national economy, we must be sure that our urban areas continue to be prosperous.

Those who oppose Federal help for improving local mass transportation must ignore the very great financial problems our localities face. It is not only that they are subject to strict legal limitations on borrowing for capital improvements. The facts are indisputable that local public agencies—State and municipal—are incurring debt for their capital needs at many times the rate of the Federal Government. At the same time, the tremendous growth of our cities is placing steadily increasing demands for local capital improvements.

I feel very strongly that the problem we face is national in scope and can only be solved by our people as a nation.

But to say that this must be a national problem does not mean that it must be solved by the Federal Government alone. The proposed urban mass transportation program is not solely a Federal program. It is a program that requires substantial local participation. Comprehensive local planning is a prerequisite to Federal financial assistance. And these must be non-Federal funds—local funds—of at least one-half the amount to be provided by the Federal Government. This is in keeping with a sound concept of cooperation among the Federal Government, State governments, and local communities—a type of cooperation that has been called "creative federalism."

We have been hearing again—as we did in the 1930's—the anguished query, "Where is the money coming from?" Social security and other programs that were then considered socialistic and likely to bankrupt our Nation, are now widely accepted. And despite prophecies of gloom and doom, we have prospered. Our Nation will continue to grow and prosper only if we have the courage to make sound investments of public funds in public transportation and other capital improvements that are needed for our continued growth and the development of our resources.

I expect that in the debate on this bill, there will be many cries of alarm about the Federal public debt. Let us recall that in 1946 our national public debt was about 27 percent more than our gross national product. Today, with about a 16 percent increase in the public debt, it is about half of the gross national product.

During the same period, since 1946, our Federal public debt, on a per capita basis, has decreased by about 20 percent, while local public debt has increased by nearly 300 percent.

We are a strong and prosperous Nation. We must continue to be strong and prosperous. This will be possible only if we recognize and face up to problems threatening our continued prosperity.

We need to provide a sound balance between public and private transportation in our urban areas, to preserve and increase the economic vitality of this vital segment of our Nation's economy. Federal financial assistance—in cooperation with State and local efforts—is necessary to accomplish this.

The proposed program of Federal aid is a modest one—$500 million for 3 years. I am not concerned that it could possibly grow over the years ahead. Let us remember that the program is a limited one and that it can be extended and expanded only by congressional action. I am confident that the Congress will carefully examine the results of the program before granting additional authorizations.

Mr. Speaker, I sincerely believe we must enact this urban mass transportation bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. HARVEY].

Mr. HARVEY of Michigan. Mr. Speaker, I think it is a fair question to ask at the outset: Why are we suddenly faced with this problem of subsidizing mass transit? Certainly, it is not because of the inability of private and municipally owned companies to raise capital for improvements. In the minority report written more than a year ago, it is pointed out that in October 1962, just a few months prior to the hearings on this bill, the New York City Transit Authority sold $50 million of gross revenue bonds in the private market with maturities up to 25 years at roughly 3.15 percent rate of interest. Again, in August of 1963, almost a year later, the New York City Transit sold $38 million more, bearing interest of roughly 3.3 percent. The record of municipal financing makes it clear that the largest cities in the United States—those complaining the most of mass transportation problems—are having no difficulty financing capital improvements in transportation or in any other endeavor that they undertake. Just look at the record:

Municipal financing for mass transit by the 10 largest cities in the United States (excluding the District of Columbia), 1962–63, as reported in the pink sheets of the Weekly Bond Buyer

City	Issue	Amount	Net interest cost	Date
Detroit	Public utility street railway	$1,000,000	2.57 percent	Mar. 27, 1962
New York	Rapid transit railroads	5,000,000	2.57 percent	Apr. 24, 1962
	New York City Transit Authority	50,900,000	3.15 percent	Oct. 17, 1962
Chicago	Chicago Transit Authority	7,500,000	3.20 percent	May 1, 1963
New York	New York City Transit Authority	38,300,000	3.32 percent	Aug. 7, 1963
Philadelphia	Railway passenger cars and transit improvement	13,500,000	3.32 percent	Nov. 13, 1963

Municipal financing by the 10 largest cities in the United States (excluding the District of Columbia) for the year 1963 as reported in the pink sheets of the Weekly Bond Buyer

City	Issue	Amount	Net interest cost	Date
Los Angeles	Department of water and power waterworks revenue	$12,000,000	(Basis 3.12 percent)	Jan. 23, 1963
	Athens-Woodcrest Waterworks District No. 1	200,000	3.70 percent	Jan. 15, 1963
	Series D, consisting of fire department and recreation and park	14,000,000	2.78 percent	Feb. 19, 1963
	Department of water and power electric plant revenue	21,000,000	(Basis 2.96 percent)	Mar. 20, 1963
	Waterworks district No. 35	300,000	(Basis of 4.24 percent)	Mar. 5, 1963
	Flood control district (storm drain)	15,000,000	3.04 percent	Apr. 23, 1963
	Los Angeles unified school district	25,000,000	3.09 percent	Oct. 1, 1963
	Los Angeles Department of Water and Power, waterworks revenue	12,000,000	(Basis 3.18 percent)	Oct. 9, 1963
	Department of water and power, electric plant revenue	24,000,000	(Basis 3.34 percent)	Nov. 20, 1963
Chicago	Transit authority (equipment trust revenue certificate)	7,500,000	3.20 percent	May 1, 1963
	Park district, consisting of park improvement, park improvement for community conservation areas.	6,000,000	2.88 percent	May 14, 1963
	Chicago, consisting of bridge and viaduct, municipal building	5,000,000	2.85 percent	May 29, 1963
	Public building commission	87,000,000	3.33 percent	June 26, 1963
Baltimore	Baltimore, consisting of sewer loan, conduit loan, city jail loan, water loan, school loan, hospital building loan, recreation and parks building loan, public parks building loan, medical examiner's building loan, central garage building loan, Jones Falls Valley Park loan, urban renewal loan, fire building and facilities loan, women's detention building loan, public library loan.	47,500,000	3.07 percent	Oct. 1, 1963
Detroit	Revenue, consisting of water supply system	10,500,000	3.16 percent	Apr. 9, 1963
	Automobile parking system	1,000,000	3.66 percent	Do.
	Detroit, consisting of public sewer, general public improvement	9,205,000	3.21 percent	Apr. 16, 1963
	Detroit, consisting of public library, rehabilitation	1,300,000	3.04 percent	Do.
	Detroit motor vehicle highway fund	1,000,000	2.59 percent	Do.
	Detroit, consisting of rehabilitation, general public improvement, public utility lighting	5,950,000	3.35 percent	Sept. 17, 1963
	Detroit, consisting of motor vehicle highway fund, public utility street railway	5,450,000	3.04 and 3.01 percent	Do.
	Airport revenue	1,300,000	3.48 percent	Do.
	Street and alley paving special assessment	120,000	2.88 percent	Do.
St. Louis	School district (school construction)	10,740,000	2.90 percent	Jan. 16, 1963
	Public buildings and improvement	14,765,000	2.98 percent	Feb. 19, 1963
	Mehlville School District (school)	1,560,000	3.24 percent	Do.
	Hancock Place School District	1,100,000	3.19 percent	Mar. 5, 1963
	Pattonville School District No. 4-3	1,150,000	3.07 percent	Feb. 28, 1963
	Public improvement	5,000,000	2.97 percent	Apr. 23, 1963
	Afton School District	450,000		Apr. 22, 1963
	Parkway Consolidated School District	1,150,000	3.14 percent	June 26, 1963
	Parking facilities revenue	350,000		Aug. 30, 1963
	Kirkwood School District R-7	350,000		Do.
	Afton Fire Protection District	80,000		Oct. 31, 1963
New York	Various purpose	108,200,000	2.93 percent	Jan. 29.
	do	108,720,000	2.88 percent	Apr. 24.
	do	103,000,000	2.94 percent	July 23.
	Transit authority	38,300,000	3.32 percent	Aug. 7.
	Limited-profit housing loan	25,550,000	3.66 percent	Sept. 10.
	Various-purpose city improvement	118,700,000	3.19 percent	Oct. 23.
Cleveland	City school district (school building)	10,000,000	2.77 percent	Jan. 21.
	Electric light and powerplant and system extension mortgage revenue	12,000,000	2.92 percent	Apr. 2.
	Various purpose, consisting of public service machine and equipment, traffic equipment, public service storage and repair building, airport improvement, urban renewal, general sewer, port development, sewage disposal, recreation, city's portion paving.	13,150,000	2.88 percent	June 25.
	City school district (school building)	10,000,000	2.98 percent	Oct. 24, 1963
	Sanitary storm sewer construction	750,000	(Basis of 2.93 percent)	Dec. 2, 1963
Philadelphia	School district (school)	15,000,000	2.97 percent	Jan. 8, 1963
	Various capital improvement	37,225,000	2.94 percent	Apr. 3, 1963
Houston	Public improvement	25,000,000	3.03 percent	May 29, 1963
	Airport system revenue	6,000,000	3.82 percent	Do.
	Independent school district (schoolhouse)	10,000,000	3.21 percent	Sept. 10, 1963
Milwaukee	Corporate-purpose public improvement	12,350,000	2.53 percent	Jan. 22, 1963
	Metropolitan sewerage	5,775,000	2.58 percent	Jan. 29, 1963
	Waterworks mortgage revenue	5,000,000	3.10 percent	July 24, 1963
	Metropolitan sewerage	7,255,000	2.77 percent	Oct. 1, 1963

Recent revenue bond sales

Date sold	Issue	Offering scale
May 12, 1964	New Mexico, highway revenue	2.65 (5 years).
May 27, 1964	Los Angeles, water revenue	2.15 (1 year) to 3.40 (30 years).
June 3, 1964	Miami, Fla., water revenue	2.80 (5 years) to 3.35 (20 years).
May 27, 1964	San Diego, Calif., water revenue	2.15 (1 year) to 3.40 (30 years).
June 2, 1964	Sebring, Fla., electric revenue	2.35 (1 year) to 3.65 (25 years).
Apr. 20, 1964	Atlanta, Ga., airport revenue	2.90 (5 years) to 3.80 (30 years).
Feb. 25, 1964	New York State, dormitory revenue	2.75 (5 years) to 4.50 (30 years).
May 26, 1964	New Jersey, highway authority revenue	2.20 (1 year) to 3.30 (20 years).

Mr. Speaker, just by way of comparison, look at the recent U.S. Treasury offerings. In the refunding of May 15, 1964, 18-month notes bore interest of 4 percent and 10-year bonds, 4¼ percent. Now, I ask you, which unit of government is in the best position to borrow the money for capital improvements? Obviously, the municipalities have shown that they have the capability and can borrow at lower rates of interest than the Federal Government.

Mr. Speaker, this problem of mass transit arises chiefly because of the increased use of the private automobile. The proponents of this bill clearly admit these facts in the majority report. The testimony at the hearings made clear that the number of privately owned automobiles in the United States had more than doubled between the years 1946 and 1960. During the same period of time the number of passengers on mass transit systems had declined so that in 1960 it was only 43 percent of the 1946 figures. It should be obvious that the convenience and flexibility of owning an automobile has become a part of our way of life. It is a mark of achievement of the young person beginning to make his way in the world. It has literally become a status symbol and the two-car families are now in the majority. Secretary of Commerce Hodges himself says that 85 percent of the total daily travel is by private automobile. Why should the 85 percent have to subsidize the remaining 15 percent?

This problem is basically a local problem and a free enterprise problem. It is local because the service, the routes, and the demands will vary in every community, depending upon size and makeup. Because several communities have a problem does not make it national, for the solution in each case may be different. The decision that the mayors and the members of the city commissions must make in determining whether a particular community can continue to support a form of public transportation is only slightly different than the decision which must be made as to whether the same community can afford garbage collection and police and fire protection. Essentially, that decision is the determination of what services the citizens in the particular community desire to have provided and have expressed a willingness to pay the cost. I am not impressed because numerous mayors testified in behalf of such a program, for it only means to me that they would prefer to solve their problems by coming to the Federal

Government without facing the unpleasant task of asking their own constituents to pay for the program.

Let us not forget, however, that this is also a free enterprise problem. As of the date of the hearings, at least 92 percent of the transit systems in America were privately owned and only 8 percent were municipal. Under the provisions of this bill grants would be made only to States and local public bodies. Now, it is true a public body would not necessarily have to operate the transit facilities or the equipment purchased as a result of such a grant, and it could provide for their operation by mass or other arrangements. Certainly, however, this feature of the bill will increase the trend to public ownership of mass transit systems. If you do not believe my statement, then let me ask you why the AFL–CIO and organized labor in general have expressed so much concern with regard to the impact that public acquisition of private companies will have on the established status and bargaining rights of employees. Of course, you are encouraging the trend to private ownership, and that is why organized labor is concerned, and rightfully so.

Mr. Speaker, enactment of this Urban Mass Transportation Act of 1963 will, in my judgment, have extremely harmful effects—not only on our Federal Government, but on local government as well. Why do I say that?

Insofar as the Federal Government is concerned, it will be harmful because it opens the door to a tremendous new spending program. No one could predict the overall cost but I have heard estimates ranging as high as $20 to $25 billion. The estimated value of the New York City Transit alone is in excess of $2.5 billion. When you couple that with the value of the systems in Chicago, Philadelphia, and other cities across the country, you can readily see that the $200 million per year as provided in this bill is only the beginning.

Just last week we raised the temporary limit on the national debt from $309 to $324 billion. I pointed out at the time that this was the seventh increase since I came to Congress, in January 1961, just 3½ years ago. Interest alone on this debt is now in excess of $11 billion per year. It seems to me that this should cause all of us to ask ourselves—If there is such a problem in mass transportation, then who can best solve the problem and do it the cheapest? The answer is clearly local government and private enterprises.

But the enactment of this legislation will be even more harmful to local government. You do not make local government stronger by this sort of program. In fact, just the opposite is true—you make it weaker. You discourage local initiative when you take away local determination and bring the Federal Government into the picture.

The Cleveland case pointed out by the distinguished Member of the other body, Senator LAUSCHE, is a good example. The local commission started to solve the problem but then decided to postpone action and seek Federal aid instead. I can tell you from my own experience as a mayor in a Michigan city of 100,000 population. No mayor had more bus problems than I had during that period of time. Do you know what this law would have done if it had been in effect? Not only would it have stifiled local initiative in solving the problem, but it would have resulted in the continuation of numerous routes—at night, on Sundays, and in the early hours, which were clearly shown to be unprofitable and little used by the general public. As it was, we simply discontinued these unprofitable routes which so few people were using. If a Federal subsidy is available, however, no mayor will risk the wrath of even a few constituents in discontinuing a route, but he will ask for a Federal subsidy instead.

Finally, Mr. Speaker, if this House is going to pass a mass transit bill and thereby insist that the Federal Government does have the responsibility for this problem, then we should not repeat the same mistake that we have made earlier. One of my basic objections to the area redevelopment legislation, which also came out of our committee, was that its benefits were so diluted that the truly depressed areas did not get the help they needed. This urban mass transportation bill is objectionable for the very same reason, and instead of the metropolitan areas that have demonstrated a problem receiving the help, the benefits will be spread—like the benefits from the Area Redevelopment Administration program—among every small village and hamlet in America with a population of 2,500 or more.

Mr. Speaker, I urge that this bill be defeated.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include tables.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. OLIVER P. BOLTON].

Mr. OLIVER P. BOLTON. Mr. Speaker, the bill before us today, H.R. 3881, is highly controversial because it raises philosophical differences, as well as practical.

It is not strictly a partisan matter—for it has its opponents and proponents on both sides of the aisle.

Rather is it another disagreement between those who believe in a strong central government—a big and domineering government—which controls the purse strings and, therefore the wisdom of what should be done by all individuals and at all levels of government.

And, those who believe in people making their own decisions, using their own initiative, and in the ability of States and local government to handle their own problems more efficiently and more responsively to the will of the people—than can centralized bureaucracy.

The advocates of Federal intervention into the field of mass transit do so on the basis that it is a national problem. If one takes the position that everything which effects the large urban areas is a national problem, they can make a point.

The majority, however, rests its position of national need partially, at least, on the statements of bus companies in smaller communities of their shrinking profits and the fact many companies are going out of business.

But, this conclusion does not recognize the change in the way of life in small cities—the change which the auto—and in some cases the family ownership of more than one auto—have brought. The decline in the use of buslines is, in itself, an indication of a change in "mores" rather than a crisis in community living brought on by a lack of transportation.

Proponents of Federal aid in this field also point to the Federal highway subsidy to back up their premise that transportation, and specifically mass transit, should be considered a national problem.

Here, too, they strain too hard. The road network is, of course, national in scope. It is interconnecting and interdependent. Therefore, it is essential that its standards be uniform, its markings the same, and the planning national in concept.

Thus, there is a vital difference—for in highways, uniformity is the key—but such even the stanchest advocates of Federal aid for mass transit would abhor—recognizing in theory at least, that, at best, mass transit is an area problem, with different solutions possible in each area. Moreover, highway users pay for highways—not general taxpayers.

Actually, referring to the problem as a national one—excluding the desire of all local governments for greater financial ability to meet their problems—is purely pragmatic and political.

My esteemed colleague, the gentleman from Alabama, clearly demonstrated this when he said to Dr. Weaver:

> Dr. Weaver, if this bill is to become law, in the House of Representatives, we need as broad-based support as we can get, and not everybody lives in major cities, especially the Congressmen do not.

Once again we have the same situation as under ARA where the concept of the Federal Government attacking a specific need in specific areas of need was broadened for practical political reasons; and the shotgun was substituted for the rifle.

No, I think mass transit is, as I said, at best an area problem, and it is being tackled as such by the communities involved.

That there is a need in some areas, no one can deny. The question, of course, is how great—of what proportions, what dimension—and what steps—at what cost—must be taken to meet them.

The Federal Government has invaded areas of local government jurisdiction and concern before—in many areas. In almost every instance it has been begun on the basis of the inability of the locality to provide the necessary funds.

Here, too, almost every witness before our committee testified that the reason they supported the bill was purely monetary. They felt that either private enterprise or local government, or both, were capable of planning a balanced system, and of running it, but that the

fare box and local tax methods were insufficient for their needs.

But the fact is that in the high density areas—where the real need exists—the ability to obtain financing is as good, or better, than at the Federal level. My colleague [Mr. HARVEY] has discussed and will discuss this in greater detail but let me just mention two examples of what this Federal subsidy does.

San Francisco faced this problem and passed a bond issue. Their people were willing to dig down deep for a need they recognized. But, nonetheless, representatives of that area were before our committee asking for help—to expand the system further? No—to reduce the local taxpayer's cost, even though he had agreed to bear it. I guess money from Washington seems free. And, in my own State—in Cleveland—the transit board voted to extend the transit system to the Cleveland Airport; and then came the suggestion that the Federal Government would pick up some—if not all—of the tab, and two members of the majority of the board changed their vote to wait for Federal aid—despite the fact that they had previously thought that they had sufficient funds on hand or authorized by the people to do the job.

This, of course, is one of the tragedies of Federal aid. Not only is local initiative destroyed, but local priorities and local timing is completely dependent upon a Federal handout policy which cannot help but delay, rather than accelerate the local solution until the Federal allocation to that locality is forthcoming after all the redtape is completed.

The demands upon government at all levels today are tremendous, and increasing daily. And yet, despite the increase in gross national product, the increase in the debt, and the cheapening of the dollar, there is not enough money to do everything.

It had been my intent to introduce a substitute for this bill, a substitute which would merely have returned to the States a percent of the individual income collected in that State. Such additional revenue to the States would have provided funds for State responsibilities and permitted them to return some avenues of revenue to local government to meet their problems at their own priorities and their own initiative. However, the Rules Committee did not grant my request for a rule making such a motion specifically in order and the Parliamentarian informs me it would not be germane.

It is my hope that the Ways and Means Committee will tackle, next year, a real tax revision law—and in so doing, will consider such an approach—so as to return the opportunity for initiative and decision on local matters to local government.

Mr. BROWN of Ohio. Mr. Speaker, I yield the balance of the time remaining on this side to the gentleman from Ohio [Mr. TAFT].

Mr. TAFT. Mr. Speaker and Members of the House, I take this time on the rule to advise each of the Members, as I have also tried to do by a letter directed to the Members, as to an amendment that in all probability is going to be offered relating to the labor provisions of this bill. I would commend them to your attention at this time because I think they deserve your study before the debate expires and we come to act upon the bill.

I am sure there may be many Members of the House who will wish, perhaps, to vote for this bill and may want to support a mass transit program. However, if they examine carefully the existing provisions of section 10 relating to labor and the proposed amendment, of which I have given a copy to each Member in the form that I believe it is going to be proposed, they may arrive at a far different conclusion in that regard.

The labor provisions of the mass transit bill have been subject to change at every stage in the consideration of this legislation. On the Senate side, the labor provisions in the administration bill as introduced were scrapped in the recommendation made by the subcommittee to the full committee. The full committee in reporting the bill, scrapped the recommendation from its subcommittee. When the bill was considered on the floor of the Senate, the committee-reported provisions were scrapped by the Senate and a substitute floor amendment was adopted.

On the House side, the history is similar. The labor provisions of the administration bill as introduced were disowned and a substitute proposed by the Secretary of Labor at the time when he appeared as a witness on the bill. His proposed substitute was junked by the committee and a different version appears in the bill as reported by the committee. On this bill we will be confronted with still another set of changes in the proposed amendment to this section (10(c)) of the bill. And I might add, this amendment if adopted would not conform the labor provisions to those of the Senate-passed bill in at least four important respects.

There has not been any committee hearing on these changes. There has been no executive session of the committee to consider them. Indeed most members of this House only today have had an opportunity to even see or hear what these changes are.

I think this is unfortunate. These labor provisions are of tremendous importance. The proposal before us would have Federal law override State and local law. The proposal before us, by Federal law would require that there be featherbedding in municipal employment. The rights of laid off municipal employees would be subordinated to those of laid off transit workers of municipally acquired transit systems. Veterans' preferences in municipal employment could be very adversely affected. Make no mistake about it, these labor provisions involve very important policy and administrative considerations. I hope the House will take the time to develop an understanding of the full implications that are involved in this proposal.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. TAFT. I am glad to yield to the gentleman from Pennsylvania.

Mr. MOORHEAD. Would the gentleman support this legislation if the labor amendment were not adopted?

Mr. TAFT. I do not expect to support this measure whether or not the labor amendment is adopted.

Mr. MOORHEAD. The gentleman is opposed to it?

Mr. TAFT. I believe the present provisions of the labor section of the bill are unsatisfactory as they stand today. They are improper. It will make them worse if the amendment which is to be proposed is proposed and adopted.

Whether one supports the bill or not is not relevant to whether we should, as the amendment would do, import into the whole area of mass transit the headaches we are now having and have had for many years in the railway labor situation.

Mr. MOORHEAD. In either event, no matter how the amendment comes out, the gentleman is opposed to the bill?

Mr. TAFT. As the gentleman knows, and as shown in the report on the bill, I opposed the bill in the committee and intend to oppose it here on the floor. This derogates not one whit from the unsoundness of the labor amendment, the damage that can be done to the labor situation in the mass transit field, if the amendment to be proposed is adopted. Some of that damage will be done even if the amendment is not adopted.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. TAFT. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. The gentleman from Ohio has been questioned concerning his position. The gentleman is opposing the bill, I take it, because he has a real sense of responsibility with respect to the finances of this country and the inability of the taxpayers of the Nation to pay bills of this kind, considering the debt and deficit situation existing today.

Mr. TAFT. As is set out in great detail in the last item in the minority views—and I signed those views—I certainly concur with the gentleman. This is a major consideration.

Mr. O'NEILL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, this great Nation of ours, the wealthiest in the history of time, surely can afford a mass transportation system, schools for its children, and every other worthy program which is currently before the Congress.

As one of the previous speakers said, our transportation system today is 94 percent private enterprise and 6 percent public utilities or owned by municipalities.

The private enterprise portion today—mostly the feeder lines—is caught in a vicious cycle. It is caught in a cycle of rising costs, fewer passengers, and higher rates.

This is a bill by which we are trying to aid and to assist private enterprise.

This country of ours must have mass transportation. We do not want the municipalities, the State governments, or the Federal Government to take over

the system. We want to aid private citizens in their running of this type of transportation.

That is the purpose behind the bill. I hope the rule will be adopted.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PUBLIC BUILDING PROJECTS—COMMUNICATION

The SPEAKER laid before the House the following communication from the Committee on Public Works, which was read and referred to the Committee on Appropriations:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., June 24, 1964.

The Honorable JOHN W. MCCORMACK,
Speaker of the House,
The Capitol,
Washington, D.C.

DEAR MR. MCCORMACK: Pursuant to the provisions of section 7(a) of the Public Buildings Act of 1959, the Committee on Public Works of the House of Representatives on June 23, 1964, approved prospectuses for the following public building projects, which were transmitted to this committee from the General Services Administration:

Nogales, Ariz. (revised): Border station (construction and alteration).

Derby Line, Vt. (revised): Border station (construction).

Cape Girardeau, Mo.: Federal office building (construction).

Ogden, Utah: IRS Regional Service Center (construction).

San Antonio, Tex.: (a) post office building (revised) (construction), (b) courthouse and Federal office building (construction), and (c) post office and courthouse (alteration).

Small public building projects for the Social Security Administration of the Department of Health, Education, and Welfare (25 projects, as follows): Anniston, Gadsden, Ala.; Prescott, Ariz.; El Dorado, Ark.; Huntington Park, Calif.; Torrington, Conn.; Rock Island, Ill.; Pikeville, Ky.; Cumberland, Md.; Haverhill, Mass.; Flint, Mich.; Austin, Minn.; Bloomfield, Irvington, N.J.; Olean, Watertown, N.Y.; Ambridge, Hazleton, Philadelphia (NE), Pittsburgh (E), Pa.; Pawtucket, R.I.; Rock Hill, S.C.; Sherman, Tex.; Beckley, Welch, W. Va.

Sincerely yours,
CHARLES A. BUCKLEY,
Chairman, Committee on Public Works.

URBAN MASS TRANSPORTATION

Mr. PATMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3881) to authorize the Housing and Home Finance Administrator to provide additional assistance for the development of comprehensive and coordinated mass transportation systems in metropolitan and other urban areas, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3881, with Mr. Moss in the chair.

IN THE COMMITTEE OF THE WHOLE

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. PATMAN] will be recognized for 2 hours, and the gentleman from New Jersey [Mr. WIDNALL] will be recognized for 2 hours.

The Chair recognizes the gentleman from Texas.

Mr. PATMAN. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, the administration's mass transit bill, H.R. 3881, has been proposed in order to help local transit systems overcome the traffic congestion that is now paralyzing our communities. All over the country transportation companies are caught between rising costs and declining patronage so that fares have had to go higher and higher and higher. As a result, more and more passengers have taken to private automobiles and made the congestion worse. It is a vicious circle that has to be corrected.

The Committee on Banking and Currency has worked long and hard on this bill. In 1962 a subcommittee held 2 weeks of hearings and took testimony from 66 witnesses, nearly all of whom supported the legislation. The bill was reported out by a bipartisan vote of 16 to 7 but was not acted on by that Congress.

Last year the administration again submitted its request for legislation to help local transit systems, and my distinguished colleague on the committee, the gentleman from Alabama [Mr. RAINS], introduced the proposal, H.R. 3881. Hearings were held before the full committee with witnesses representing the administration, local government, private bus and train operators, labor and business organizations, and others interested in transit problems. Again, the overwhelming weight of the testimony was favorable to the bill, and again the bill was reported by a strong bipartisan vote—this time 22 to 7.

It was these hearings that convinced me and a substantial majority of the committee of how urgent is the need for Federal aid to meet local transportation problems. Serious traffic congestion is obvious in all of our larger cities, but we were particularly impressed with the testimony that smaller communities also need help, and in many cases their need is urgent. As one mayor of a small southern town told our committee, the availability of local bus service is often an important factor in the decision of a private investor whether or not to establish a local plant. Transit service is vital to those who cannot afford to own and operate private automobiles. In addition, there are millions of Americans who are not physically able to drive cars, particularly among the 17 million elderly citizens—those age 65 and over. The problem also exists for those too young to drive or those who have some physical infirmity. The need is not confined to these groups, however; there are many people who prefer public transportation and if adequate service and good equipment is available find it better suited to their needs.

It is apparent that buses, commuter railroads, and other public transportation systems are a very real necessity to millions of people in our towns and cities. The rapid growth in our urban population is making this need more urgent, but at the same time the facts show that financially the transit industry has been fighting a losing battle. In the period from the end of World War II to 1961, the number of passengers declined 58 percent, transit employment dropped 38 percent. The return on investment has fallen to less than 2 percent, according to the American Transit Association. While there are some cities where transit companies still operate in the black, the overall picture is one of a distressed industry. Neither the ingenuity of private operators nor the concern of local public officials has been enough to keep many companies from going into the red and sometimes going out of business altogether.

Historically, transportation has been an important concern of the Federal Government. Already, we have a $41 billion highway program and about half of that money is going into urban areas. However, there is a limit to the amount of highways which can be built within our towns and cities. Many communities have already passed the point of diminishing returns in reliance on the private automobile. We all recognize the need for further improvement in our streets, roads and freeways, but at the same time there is growing recognition that the proper role of mass transit is being slighted seriously. At present there is no program of aid for this vital industry. The pending bill would redress that imbalance.

I would like to emphasize that this program relies entirely upon local initiative and requires local matching grants. It is entirely up to the people of each community whether or not they want to participate in the program and to what extent. What it will do is make it possible for our towns and cities to achieve balanced local transportation systems in which both the private automobile and mass transit will play their proper role.

Mr. Chairman, this legislation meets an urgent national need and I urge its adoption.

At this time, Mr. Chairman, I yield to the distinguished gentleman from Alabama [Mr. RAINS] for the purpose of continuing the opening statement for the committee on this bill, H.R. 3881, such time as he may desire.

Mr. RAINS. I thank the chairman.

Mr. Chairman, we are now taking up for consideration one of the most important measures to come before this Congress and one which President Johnson has put high on his list of "must" legislation for this year—the urban mass transit bill. This proposal has received intensive study in both Houses of Congress in recent years and the need for it is well established. Traffic problems are growing steadily worse in towns and cities of every size as the rapid growth in our urban population outruns our ability to provide streets, highways, and

parking facilities and as mass transit services and the financial situation of bus and railway companies in many communities steadily declines.

The program of partial Federal grants contained in the pending bill, H.R. 3881, was submitted by the administration in 1962 and again in 1963. In urging the passage of this program, the late President John F. Kennedy said:

> Our national welfare requires the provision of good urban transportation with the properly balanced use of private vehicles and modern mass transport to help shape as well as serve urban growth.

President Johnson has thrown his full weight behind this important measure. In his message to the Congress on housing and community development last January, he stated:

> Efficient transportation systems are essential to our urban communities. Each local system should be tailored to its particular needs—existing and prospective—and the proper mixture of good highways and mass transit facilities should be developed to permit safe, efficient movements of people and goods in our metropolitan centers. I urge early enactment of the mass transit program as basic to the development and redevelopment of our Nation's cities.

Mr. Chairman, the problems which this bill seeks to solve affect every one of us. It affects the millions of people who use mass transit daily; it affects those who find that driving their own cars becomes more difficult every day as traffic jams become worse and parking more difficult; it affects the whole Nation because our cities account for most of the business activity of the country and anything that makes them inefficient hampers our national growth; and, finally, it affects all of us who recognize that unsolved traffic and transit problems weaken local government and reduce the tax revenues on which they depend.

Mr. Chairman, this bill is by the very nature of the problem a complex bill and very frankly, by the very nature of the problem it has to meet, it is a controversial bill. In the beginning of the long hearings in which I have participated on this bill before the subcommittee and the full committee, I wanted to know in my own mind—and the gentleman from Ohio was correct a while ago when he said that this bill, if it is to be enacted by the Congress of the United States, must meet a national need—whether it was to meet a national problem. If it is to be enacted there must be a national problem.

I am one, and I say this sincerely, who if a matter is truly a local problem, do not want the Federal Government participating in it. But on things that mightily affect the welfare of the entire Nation, many people are prone to say, "Oh, that is a local problem."

Mr. Chairman, I believe that the witnesses—witness after witness, mayor after mayor, private enterprise man after private enterprise man—and I invite your attention to the list of the witnesses before the committee—established beyond peradventure of a doubt that there is a national problem in mass transit.

Mr. Chairman, approximately three-fourths of all people in America live in cities and towns. It is also true that about four-fifths of every tax dollar paid in America is paid by a man or a woman who lives in a city or a town.

I came from a small town. This mass transit bill will be of very little concern to many of the citizens in my State, but I honestly believe, and I believe you believe, that we are here not as the local Representatives of a particular district only, but I believe we are here as National Representatives. I believe that is a part of the duty and obligation that all of us respect and assumed.

Therefore, Mr. Chairman, if the lack of mass transit is strangling the growth of the cities of America and if the cities of America are the coffers out of which this Nation is supported, if that is true, then it is a national problem.

Mr. Chairman, we can go back, and if the members of the committee have read Gibbon's history of "The Decline and Fall of the Roman Empire," we find that the empire perhaps fell for many reasons, but one of the reasons was that the cities strangled to death. They became within themselves completely disassociated with the federal or state or national government of that day and they died. When those cities died, the nation died.

Mr. Chairman, I do not stand here just speaking for city people; I am as much concerned for people who live on the farms across this country, because I was born and reared on one. But I recognize that the growth of this great Nation, which we all love and cherish above everything else, is wrapped up in the prosperity and the welfare of the great cities of America. I believed it when I offered the recent urban renewal legislation. I believe sincerely if you improve the downtown hearts of the great cities of America, it is a good business investment. I believe that in any business if you never put back into that business any dollars at all, that business will fall apart.

Mr. Chairman, the prosperity—and this is factual statement—the prosperity, the welfare, and the growth of the cities of America are important to our Government, because that is where we get the taxes.

I am simply saying if the cities of America are—and the record shows it beyond doubt, all you have to do is look around you—strangling to death with traffic problems, we need to do something about it at the Federal level.

Mr. Chairman, one other thing which I think we should remember about the bill is this: This bill actually is a private enterprise bill. The gentlemen from Massachusetts [Mr. O'NEILL] was eminently correct a moment ago in the figures which he used that show that over 90 percent of the mass transit systems of this country are owned by private enterprise, and before I get through with my participation in this bill, I intend to offer an amendment that even more strongly supports private enterprise, than the present section does.

Mr. Chairman, this bill is not intended to give to the cities a club for public ownership at all.

If the members of the Committee will read the bill carefully and report, they will see that in some way or other we have got to give aid and assistance to the private enterprise business of this country so it can provide the mass transit solution.

Mr. Chairman, I would be the last fellow, I believe, in the world to say anything that in the least would cast any reflection at all upon the great highway program. I say that I regard that as the one outstanding truly great public works achievement of the Eisenhower administration. It is fantastic. It is the greatest public works program in the history of the world. There has never been one like it.

I would like to believe that we could build enough highways into the cities of this country to the point where everyone could drive his own automobile and have a place in which to park it.

But I know, and I know every man and woman here knows, there is not enough room in the cities of America to build the highways we would have to have, the overpasses and the underpasses; to build the parking lots at even a reasonable cost, to have streets and alleys we would need.

Whether we like it or not, the time is here in which people cannot depend entirely on private automobiles. Therefore, some other provision must be made.

The gentleman from Atlanta, Ga. [Mr. WELTNER], is here—my distinguished friend. I may have this percentage wrong, but I have been told that in Atlanta, Ga., 56 percent of all the land space in that great, growing, thriving city is given over to streets, highways, overpasses, and parking lots. Where are you going to build any more? How are you going to get them in and out? Forty-five percent of all the Federal aid money that we give to the highways—and I am proud to vote for it every time—goes to cities and towns. This is very expensive, and involves approximately $20 billion. We need highways. But it is entirely possible that we can move more people in and out of the cities of the country for much less money than we are doing now.

And let me say one other word. There are people here who say to me, "Well, I am not interested in the bill because I do not have any traffic problems in my district." Back in the broad, open spaces of Alabama we do not have much either—but I will tell you one thing: We have big, broad, four-lane interstate highways, and the people from Ohio and New York help pay for them; therefore I feel as an American citizen that I am obligated in a small way, perhaps, to help the people of the great cities of the country pay for theirs. We are all in it together. We cannot hide out here. Some may say, "We do not need to look at that because it is not my problem, it is the Nation's problem."

In my judgment, this is as essential as housing bills. There is opposition always to a housing bill, but I think we have come to know there must be some type of housing legislation in this country year after year. I am not going to argue that now, but in about 3 weeks' time I will try to argue that.

But the gentleman from Ohio. [Mr. TAFT], is against this bill, and he attacks

it indirectly. He sent a letter about the labor amendment. I am going to offer an additional labor amendment, and it is going to be wrapped up with a private enterprise amendment. It is not going to affect any work laws; it is not going to affect the right of any State in any shape, form, or fashion. I say to the gentleman, and everybody knows already, that there can be no law written that will enable any strike against the town, city, State, or National Government, and there will be nothing in that which will attempt to involve it here. There will be the same type of protection that is already written in the Interstate Commerce Act affecting railroad employees and it will help bus employees likewise if a company is bought from the private owner. I think when the amendment is offered it will be obvious to everyone it is fair, not only to labor, but it is fair to private enterprise, and it will be fair to the cities and towns in the event they have public operations.

Mr. Chairman, with your permission I would like to briefly go step by step into the main and important items in the bill.

The first and basic provision of the bill is Federal grant assistance for mass transit equipment and facilities. I will say to my distinguished and beloved friend there is no back-door spending involved. It is absolutely 100 percent the appropriation method. The formula for determining the Federal grant is similar to that used under urban renewal. Grants can be made for up to two-thirds of the net cost of the project and the remaining one-third will have to be met by the local governments in cash. And an estimate will be made of the revenues of the transit system to determine the amount which can be financed from the fare box. That is substracted from the estimated total cost of the project, and the net difference would be paid by Federal and local grants on a ⅔-⅓ basis.

I should like to point out also that the funds for this program are already in the President's budget request for fiscal 1965. If it should be enacted, actual cash outlays in the coming year would be only $10 million because of the long-term nature of these projects. Because of the necessary time it would take to get underway, I intend to offer an amendment to cut the amount by $125 million from $500 million to $375 million, when we get to the consideration of the bill under the 5-minute rule.

The second provision of the bill is a temporary emergency program of aid which recognizes that in many places something must be done quickly. This section would waive some of the planning requirements but would limit the Federal share of the net cost to only one-half instead of two-thirds. If the community, however, meets the full planning requirements within 3 years they then would be eligible for the two-thirds grant.

The third provision authorizes the appropriation of $500 million spread over 3 years. Please note that I said "appropriation"; there is no so-called back-door financing involved. As I have just said, I hope to offer an amendment to reduce it to $375 million.

The fourth provision of the bill would permit a part of these funds to be used for demonstration projects to try to find more efficient ways of meeting our transit problem. Under this section up to $30 million of new authority would be used for demonstration grants.

Fifth, the bill will provide relocation benefits for families displaced under the transportation program, similar to the benefits provided under the urban renewal program.

Sixth, the bill would require fair and equitable arrangements, as determined by the Administrator with the concurrence of the Secretary of Labor, to protect the interests of affected transit employees.

The bill will maintain or increase employment in the transit industry and, we are sure, halt the sharp decline which has been going on in recent years.

The chairman of the committee told you this bill was voted out of the committee by a bipartisan vote. I want to compliment the gentleman from New Jersey [Mr. WIDNALL] and others who not only voted for the bill in committee but were active participants and supporters of the legislation in committee. It was voted out by a vote of 22 to 7.

This legislation has been studied at great length by our committee in hearings in 1962 and again in 1963. In those hearings, we took testimony from a great many witnesses representing local government, private bus operators, railroads, labor, industry, civic groups, and others interested in the problem. That testimony was overwhelmingly in favor of the legislation. Those hearings and the many reports and news stories published since then have firmly established several facts.

First, the problem which this bill is designed to meet is a serious one and the need for action is urgent. We are all familiar with the so-called population explosion and the rapid growth of towns and cities of every size. In spite of this, the number of people being served by mass transit has dropped off sharply and service has been reduced. The competition of the private automobile has cut deeply into the passenger volume of mass transit. Now, however, there is growing recognition that private automobiles cannot meet all of our local transportation needs no matter how many highways we build and meanwhile our investment in mass transit has been neglected.

All too often mass transit has been caught in a vicious spiral. Let me read to you, for example, how the operator of a private bus company in one Southern city recently described his predicament:

> Since writing you last we were forced again to take the wrong road by a fare increase. Our projected formula indicated we would lose passengers as a result, and that in 14 months we would be back with the same amount of revenue, only with fewer riders. This is exactly what happened.
>
> We find ourselves with a lot of old buses, expensive to operate and unattractive to customers. We have had to cancel some routes entirely. We reduce schedules but, as you know, when you spread out schedules it discourages more riders. Our next desperate step would be to raise fares again, but at the end of a 12- to 15-month period we would be in a worse fix than now, so what do we do? Should we take this same course and wind up a year later with fewer riders and older equipment?

The experience of the company described in this letter is being repeated over and over again throughout the country. Mass transit, whether bus, rail, or subway, involves heavy capital investment and by its nature requires a certain minimum passenger volume because of its fixed costs. When ridership falls below that minimum, the company goes into the red even though there are thousands of passengers still dependent upon it daily.

The great need that this bill seeks to meet is for new equipment, equipment that the fare box presently without some aid and assistance, call it seed money or whatever you will, is unable to purchase, and it is a continuing vicious circle of higher fares and fewer passengers. The result is, and we firmly believe the record proves it, that if you had the equipment, which could be leased at a reasonable price to the owners of the private bus or rail transportation in this country, you would be able to see the fare box pick up with additional customers to where it would be self-supporting. I cannot guarantee this in any way. I cannot guarantee private enterprise is going to make a profit any time, but I do know we are going to lose money on the mass transit systems in this country unless some aid is given.

You know it seems every once in a while we talk about this as if this is all new. Railroads were built in this country by Federal aid clear across the country. From time immemorial we faced up to this problem in this way. We either give this type of aid and assistance or it becomes a matter of governmental ownership of the commuter railroads. So I think if we can, we better move in and give free enterprise the shot in the arm that it needs and keep out Government control and Government ownership.

We must not forget that there are many who do not have the option of using their own cars to drive to and from work or for shopping or other trips. Many people simply cannot afford to own and maintain a car and keep up the many expenses that go with it. Many of our elderly citizens either can no longer afford cars or are physically unable to drive them. The same thing is true of our millions of teenagers who are not old enough to drive as well as those who cannot drive because of some physical infirmity.

It is estimated that there are some 30 million people between the ages of 18 and 65 who do not have licenses to drive and need mass transit. For many people this is a matter of preference. However, people do insist on equipment that is comfortable and dependable—not 40-year-old commuter trains or 20-year-old buses. They also want good service without unreasonable crowding. This means schedules that meet their needs, and routes that are convenient to use. It means also adequate parking lots at sta-

tions or terminals in the area where they live.

Every time service is curtailed, more people are forced out onto the highway to add to existing congestion and some part of our present investment in mass transit facilities is lost and by all the evidence will have to be replaced eventually at a higher cost. The time for action on this critical problem is already overdue.

A second fact established by the hearings is the national nature of this problem. Already, over two-thirds of our population live in urban areas, and these towns and cities generate an even larger part of our national income, production, and Federal tax revenues. The Congress cannot be indifferent to the problems of these communities and the record shows that a great many of them are already faced with difficulties of major proportion and others will soon have to face up to the problem. The American Transit Association testified that there are 60 cities of 25,000 population or more who now have no mass transit service at all. The ATA further reports that since 1954 over 150 local transit companies have abandoned service, many of them in small towns.

The Federal Government cannot ignore this urban transportation problem. The continued economic vitality and growth of our urban areas is essential to our national welfare. Indeed, the welfare of all our citizens—rural and urban—is directly dependent upon the commerce and industry of our cities and towns. It has been estimated that more than 90 percent of the Nation's gross national product is generated in urban areas—a clear indication of the importance of urban economic vitality to the national welfare.

It is also clear that local government cannot afford the measures necessary to solve this problem entirely on their own. Rightly or wrongly, the Federal Government has largely preempted the most fruitful source of tax revenue through the Federal income tax which has the special feature that it cannot be escaped across State lines.

Before I came to the Congress, I was in the Alabama State Legislature. I was chairman of the cities and towns committee of that State, having to do with little cities and towns. I was a city attorney and I had to do with municipal government all the years before I came here. Since I have been here on the committee that I am a member of, I would say that we have had more municipal problems to be concerned with before us than nearly any other committee. I say that only to point out that I believe I know something about the problems of the cities and towns of America. It is easy, as my distinguished friend, the gentleman from Michigan did, to cite the fact that in some specific instances on a bond of a specific type that you are able in certain cities to get a bond rate below what the Federal Government ordinarily pays. That is because of the tax-exempt feature.

The fact is that State and local government is straining its resources to the limit to meet the many and increasing needs of their people. Striking testimony to this was given in a staff report in the Wall Street Journal of last February 18. That report stated:

> The debts of America's States and towns have rocketed 448 percent since World War II. This increase in the little-noticed indebtedness of States and municipalities has far outstripped the growth of the highly publicized Federal debt, which has edged up only 13 percent in the same period.

In other words, this local debt increase is nearly 35 times the percentage increase of the Federal debt.

The report also points out that between 1946 and 1963 State and local debt on a per capita basis quadrupled from $120 to $467. During the same period Federal debt decreased on the same basis by one-fifth.

The Federal Government is already involved in this problem under the highway program. I can well imagine the dilemma of a mayor or city council confronted with a local traffic problem. If they seek to solve it through additional freeways and streets, they can obtain Federal grant assistance for 50 percent of the cost or in some cases 90 prcent. On the other hand, if they want to improve bus or commuter rail service, they find there is no Federal assistance available at present. Under the heavy pressure of their immediate financial problems, they may be forced to turn to more freeways even though they believe that in the long run mass transit would be better. This bill seeks to redress that imbalance and enable the people of the community to choose more objectively.

The hearings also clearly established that the private automobile cannot meet all of our transit needs. Let me emphasize that there is no competition between this proposal and our great Federal aid highway program. I have always supported the highway program which is one of the greatest domestic economic efforts in our history. Clearly, there is still a tremendous need for more highway construction. However, the level of that program is already laid out for years to come in existing legislation. The modest supplement provided by this bill will not affect that program but will make it more efficient by encouraging balanced transportation systems. It comes as a surprise to many but the fact is that nearly half of the $41 billion authorized for that program is being spent in urban areas and is contributing greatly to improving our cities.

In spite of the dramatic accomplishments under the highway program, our backlog of need and rising requirements still outrun our efforts. The strongest highway advocate would not throw all of our urban transit needs on the shoulders of that program. The American Municipal Association has estimated that if the five cities of New York, Chicago, Boston, Philadelphia, and Cleveland were to lose bus and rail commuter service, it would cost $31 billion to build the highways necessary to serve a comparable number of people. Testimony showed that if mass transportation were abandoned in Chicago alone, an additional 160 expressway lanes would be required plus parking facilities for 600,000 additional automobiles. Obviously, the problems of traffic control would be monumental and the people of Chicago would spend a major part of their time and effort and a substantial part of their incomes on local transportation. In another city, Atlanta, it has been estimated that one expressway alone would need to have 36 lanes to handle the predicted 1970 traffic.

Overreliance on private automobiles also entails a heavy cost to the local taxpayer in the form of land removed from the tax rolls altogether or put to relatively low yielding purposes. Right now, more than one-half of downtown Los Angeles is devoted to moving or storing automobiles.

Mr. Chairman, I would like to make it perfectly clear that there is nothing in this bill which favors public ownership of mass transit over private enterprise. This has been emphasized in Presidential messages and in administration testimony, and we have guarded the rights of private enterprise closely in committee action on the bill. H.R. 3881 is supported by the American Transit Association representing the major private bus operators and by the Association of American Railroads. While the grant assistance naturally must go to a local public body, the equipment and facilities provided would normally be leased to private operators. This is just the way that the local authority in Philadelphia, which has pioneered in this field, now operates. In my judgment, this program will actually save many private companies. The financial difficulties of local bus and commuter train operators have forced many of them into the position where it was no longer profitable to operate and the city has been forced to take over just to continue service. By providing new equipment and better facilities to the private operators, we can increase their revenues and shore up their finances and thereby enable them to stay in business. Such aid is amply justified because of the public utility nature of mass transit. These companies provide a vital service which would have to be undertaken by local government if existing companies were not in business. Moreover, private companies are generally required to maintain noneconomic runs and services such as late night and weekend runs which do not fully pay their own way but are necessary to fulfill their public service. These companies are regulated as to return on investment by local authorities so that there would be no windfall to the private operators, only a justified return.

I would also like to emphasize that this program depends entirely upon local initiative, planning, and financial participation. It is entirely up to the people of a community whether or not they want to use the program and are willing to put up the local cash grant.

Mr. Chairman, in closing I would like to quote from a speech given by President Johnson last week on mass transit:

> Our Urban Mass Transportation Act sponsored by this administration has already passed the Senate of the United States and it will soon come to a vote in the House. We are going to do our dead level best to see that it passes the House and becomes the law of the land. Both Republicans and

Democrats are supporting that measure because transportation is a bipartisan problem. It is also national in scope.

Congress has voted billions of dollars to build highways, to build airports, to dredge harbors, to dredge canals, to improve river navigation. In the last century Congress helped finance railroads and shipping lines, to open up new areas of the country, to open up new trade routes abroad. Now Congress and the Federal Government must help to solve the problems of transportation.

The President went on to say:

When this bill went before one of the committees of Congress last year, a distinguished Republican Congressman from Ohio said to Congressman PATMAN, from my State, who was testifying in favor of the bill, "Why are you from Texas interested in helping the people of New York solve their traffic problems?" And the Congressman from my State said, "Well, I am interested because this is the United States of America, and the people of my State are as involved with the people of New York and California as the people of New York and California must be with the people of Texas."

Mr. Chairman, this bill has support on both sides of the aisle; it has support from private industry, labor, and local government; the need for it is clearly proven. I urge all of my colleagues to support H.R. 3881.

Mr. HARVEY of Michigan. Mr. Chairman, will the gentleman yield?

Mr. RAINS. I yield to my distinguished friend from Michigan.

Mr. HARVEY of Michigan. It seems, from what my good friend has said, that first there is indicated an ability of the municipal governments to borrow, which is precisely what I said on the floor earlier. They have had success in their borrowings.

Despite all of my searching, I have not been able to find one city all the way across America which has had a bit of trouble in borrowing, and at a much smaller interest rate, for financing improvements in transit systems, or any other sort of capital structure.

I know that my good friend from Alabama would not wish to leave the impression here this afternoon that the cities of America are not able to borrow at interest rates almost 1 percent less than the Federal Government has to pay.

Let me say today that the gentleman knows as well as I that this program, if it goes through today, will have to be paid for with borrowed money, borrowed by the Federal Government at interest rates of more than 4 percent, when the cities are able to borrow money at 3 percent.

Mr. RAINS. If the gentleman heard a single, solitary mayor who appeared before the committee who said that they were able to do this out of their funds, he heard someone I did not hear.

Mr. HARVEY of Michigan. I would cite to the gentleman the case of New York City and the case of San Francisco.

I say to the gentleman, as one who served as a mayor formerly, as one who attended the meetings of the American Municipal Association and took part in the discussions, I do not believe there is a single mayor who has said, "We do not want Federal funds." That is the easy way out.

Mr. RAINS. That sounds good, but that is not the way it is, as the gentleman knows.

The gentleman knows that if we should follow that policy to the end, the thing to do would be to let the urban renewal program be handled locally. I believe the gentleman believes that. Then we would have to say, "Build your own highways. Keep the money you pay in taxes. Stop it at the city line, and do everything you want."

We cannot do that in this country. The people of the cities in this country—mine and yours—are entitled to a return of part of the taxes they pay, for what I believe is a very great need.

Mr. Chairman, I do not yield further.

While I sat in the Chamber listening to the debate, I looked up and saw something written by a good conservative which is on the wall above the Speaker's chair. This is what Daniel Webster said:

Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests and see whether we also in our day and generation may not perform something worthy to be remembered.

I do not believe he was merely talking about farmland. I believe sincerely that this will be a good investment for the people of America. I believe it will be a good investment for private enterprise. I believe it will be a good investment for the taxpayers of this country. It may help to save the cities of our Nation. Thank you.

Mr. WIDNALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. BARRETT. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from Pennsylvania.

Mr. BARRETT. Mr. Chairman, I rise in favor of H.R. 3881.

Mr. Chairman, H.R. 3881, the urban mass transportation bill, is a must for the Philadelphia region, as it is for all our cities. In testifying on the bill last year Mayor Tate of Philadelphia, representing the U.S. Conference of Mayors, said:

The problem of public transportation is one of the toughest—if not the toughest—problems facing municipal government of every size in America.

The mayor has been very close to this problem. He has been in the forefront of the great effort Philadelphia has been making to solve it for more than 10 years. From this experience he speaks with authority as to the great need for the Federal Government to join in the effort to preserve and improve our cities' transportation systems.

The U.S. Conference of Mayors has urged Federal legislation to preserve and improve public transportation at each of its past seven annual conferences.

The problem has been before the Congress since 1960. It has been studied at great length by many competent people in addition to our cities' mayors and other State and local officials. There is very little dissent from the view that participation by the Federal Government in solving the problem is vitally necessary. As the months and years pass without such action, the problem grows in severity and the cost of meeting it will increase.

Urbanization in America is no recent development, but in recent years the pace has quickened. It is estimated that by 1980 about 79 million more people will be added to the urban population. With more people making more and longer trips it is apparent that much of the increased travel must be made by high-capacity public transportation.

Despite an urban population increase of 38 percent between 1950 and 1960 there was a 40-percent decline in transit riders for the same period. In the past 10 years, 199 transit systems have been abandoned. This loss of public transportation is not only economically wasteful but a hardship to many of our citizens. Consider the plight of the infirm, the aged, the youth, and especially the worker with transportation in cities having no public transportation or inadequate and undependable systems.

The present bill is consistent with past Federal policy. Federal assistance has been extended for highway construction, railroads, waterways and other maritime operations, airports, and airline operations at various times in the past. The recent biannual authorization of funds for our A–B–C highway systems recently passed this House without a dissenting vote. In relation to past assistance for other forms of transportation, the funds for this bill are indeed modest.

The Philadelphia area provides an excellent example of what intelligent leadership and public support can do to stimulate transit usage. I use Philadelphia as an example, although there are others of equal significance, because I am familiar with the problem and I know what has been done there. We have more than a quarter of a billion dollars invested in the city's transit system. We have a capital improvement program of over $100 million to improve the rapid transit system and commuter rail facilities.

I think we have proved that more people will choose public transportation if the service is attractive. In 1958 we appropriated $160,000 to assist the Pennsylvania Railroad and the Reading Co. in furnishing improved commuter service. This was the start of a continuing program for such service improvements. In 1961 the adjoining counties of Bucks, Chester, and Montgomery joined with Philadelphia in forming the Southeastern Pennsylvania Transportation Compact. This agency sponsored a service improvement demonstration project with HHFA furnishing two-thirds of the net cost.

The service improvement project got underway late in 1962. Since then the increase in ridership on both the Pennsylvania and Reading lines has been remarkable. Despite the gains in patronage already achieved under the limited program, at the end of the first year of the demonstration one line showed a 41-percent increase over the preceding year and the other line an increase of 60 percent. In terms of reduction in new freeway requirements, downtown parking facilities, and traffic congestion, this program must be regarded as an excellent investment for the whole city, not just the transit riders.

The Federal demonstration grant assistance that Philadelphia received was a "one-shot" affair, for operating expenses. The Philadelphia area badly needs the capital grant assistance proposed in H.R. 3881. The city itself is already putting just about as much as it can of money and effort into mass transportation—indeed, considerably more than most cities. But Philadelphia badly needs rapid transit lines that cannot be financed out of the present mass transit program.

And the situation is far more complicated, and even more discouraging, if you consider the Philadelphia area as a whole. That involves about 5 counties, with about 250 local governments.

It is very difficult for them to raise any funds to contribute to an areawide mass transportation system, which is what the Philadelphia area urgently needs. Federal capital assistance for such a system is essential to give leadership and incentive to local efforts.

Without Federal participation in local capital improvement programs for public transportation, local efforts—in the Philadelphia area and elsewhere—will almost certainly be inadequate. Without help, our Nation's cities and suburbs just cannot provide the total investment required for a counterpart of our splendid interstate and urban highway programs. Local debt has increased at a rate 35 times that of the Federal Government and is still going up. The preservation of the economic vitality of our cities—so important to the economic welfare of our Nation—urgently requires and justifies Federal assistance for urban mass transportation improvements.

A final word—let us not be fooled by the false charges that Federal expenditures will curb local home rule power. To quote Mayor Tate again:

> No one is more jealous of the prerogatives of local government than the Nation's mayors. No one can shout louder if our local interests are trampled on. You can be sure that we are capable of maintaining our local freedom.

Mr. Chairman, this vitally important bill, H.R. 3881, must be passed.

Mr. WIDNALL. Mr. Chairman, I rise to fully support H.R. 3881, the measure introduced and explained to the House by our distinguished colleague, the gentleman from Alabama [Mr. RAINS].

I support this bill because of my great concern over the stifling of the great cities and great urban areas, and now some of the suburban areas of the United States. This is a matter not merely of concern to those immediate areas, but of concern also to the moving population of our United States. Today it certainly is a mobile population, which moves from State to State, both for business and recreational purposes.

It is not like it used to be where one led a sheltered life with respect to many of the things that took place within our economy, within our States, within our rural areas, and within our cities. Today, particularly in the field of transportation, it is necessary to have well coordinated, well planned, well maintained systems if we are to meet the growing needs of our country.

Mr. Chairman, this bill requires the appropriation over a period of 3 years of $500 million. I know that there will be critics who will say that is only scratching the surface and that ultimate expenditures will run into the billions. This undoubtedly will be true. I would not attempt to deny that. However, I do think we should begin to attempt to meet the needs of our Nation and not say that we can eternally postpone doing anything except constructing new highways, looking for new rights-of-way, and providing parking places in the cities for those who are the country dwellers or the suburban dwellers. This will not solve the problem. There are too many areas that are being stagnated today and critically affected by what is taking place within our economy.

Like any other appropriation, this should be examined for the monetary request which is entailed. Such examination, however, should be made in the light of what we will have to spend if we fail to act as well as what we will spend if we do act. Today we are becoming rapidly an urban economy. It is not our central cities that are growing, however, but our suburbs. The two areas must be linked up if both are to prosper.

For the last half century we have had at every level of government and have spent at every level of government billions of dollars in facilitating the movement of our cars and buses and trucks in trade over wider and wider roads. These roads have become thoroughfares, the thoroughfares have become throughways, the throughways have become expressways. Now, there are some that point out that expressways, during rush hours at least, have become our biggest and longest parking lots. When those cars reach their central city destination, there is the unending struggle to park them.

With our population and car ownership on the increase, we have come to the time when we must face the fact that in urban areas we will shortly not have the room for these expressways turned parking lots. We all know that a single stalled car in seconds can produce a traffic snarl that will extend for miles. We know that in winter any road and its traffic is at the mercy of ice and snow and driver judgment. You also know what happens in periods of real emergency if there is no alternative means of transportation by way of railroads. Mass transit offers a better way of transportation.

I am not suggesting that we abandon the highways. Some people seem to feel those of us who favor this mass transit bill want to stop the Federal highway program, which has been of great benefit to the United States and which should be continued full tilt without any cut. We need that program, and it is my sincere hope that we will have more of them. I do think we need this alternative, and the alternative is in the mass transit bill.

The need will grow greater with the years, not less, and I challenge any Member of this body to say to the contrary.

We have mass transit today, not the kind we need but one without which our economy could not function. Shut down the railroads of this Nation for 48 hours, and the truth of my statement will be quickly demonstrated. This happened in all of our lifetimes. We are in danger of having that happen not in 48 hours, which would shock us, but over a period of years. These years will not be many, but while they run we will always be nibbled to death if we do not pass the measure now before us.

We will also be faced with the prospect of spending 10 times as much for mass transit as we are now requesting in this bill.

The mass transit business today is not healthy; its service is not what it should be, nor are its facilities. They are, however, better than the cost which the public is presently paying in the farebox.

The public is paying far more for automotive transport and the means to make it go, but through car ownership this is not easily realized. We cannot, however, wait any longer for assistance to mass transit. We need to preserve it now.

If we do not, we are liable to lose skills and experience that we cannot hope to replace in any short period of time. Very probably, we will most need those skills at a time when we are least able to reacquire them. I ask you to consider this question carefully. It is my considered opinion that the welfare of the Nation is riding on the outcome of the successful passage of this bill and that time will soon make that evident.

H.R. 3881 looks to the acquisition of facilities and equipment. It does not look to the subsidization of operating costs. And I would like to emphasize that, because some people have a misconception of this bill. It does not subsidize operating costs.

It concentrates on research and development which must be carried on by those already experienced in the field. This should insure us both better service and faster transportation. It contains provision for a relocation program which would insure that any family displaced would be adequately protected. The rights of employees, particularly those with long service, are also protected .

The House bill was reported from the Banking and Currency Committee on April 9, 1963. A different version of this bill, the differences to be noted below, passed the Senate on April 4, 1963. The bill was voted out of committee on the House side with bipartisan support. Major provisions are as follows:

The bill provides for grants and loans to States and local bodies and agencies for construction, rehabilitation, and acquisition of facilities and equipment. Assistance cannot be used for operating subsidies. The Federal share is two-thirds of the net project cost, a figure determined by subtracting from the gross project cost that amount which can be paid by revenues from the system itself. The local one-third share must be in cash.

The bill provides for a requirement of a unified or officially coordinated urban transportation plan before assistance is provided. In emergency situations, where a plan is being formed, and where delay would threaten the continuation or provision of a system, grants or loans

may be given out, but only on a 50-percent basis. If the full-planning requirement was met in 3 years, an additional one-sixth of the net project cost would be provided by the Federal Government.

The bill provides for a research, development, and demonstration project program involving grants of $30 million—$10 million per year—out of the $500 million 3-year program total. The two-thirds, one-third Federal-local share would be eliminated with the Federal Government paying the entire amount of gross project cost, except that the value of facilities and equipment remaining after the experiment would be considered in determining the actual cost.

The bill provides for relocation payments up to $200 for families displaced, and $3,000 for businesses for actual direct losses of property except goodwill or profit, and moving expenses. In the case of businesses, the total cost of certified moving expenses would be paid if higher than $3,000.

The House bill provides for a limitation of 12½ percent of the funds to any one State. The Senate has approximately the same limitation, but provides for the possibility of 1 percent of the total amount—$375 million—to each State in addition, the total additional contracts not to exceed 10 percent of the total amount. Where regional bodies were concerned, the limitation would not apply.

In both bills, "urban area" is defined as whatever municipality or built-up area would be suitable for a transportation system to serve commuters "or others" in the locality taking into consideration growth trends—all as determined by the HHFA Administrator.

Mr. Chairman, I believe that this is an extremely meritorious bill and that it warrants the full consideration of every Member of this Congress who is looking forward to the progress of the United States and its overall economy. I maintain, and I believe others do also, that this is not a sectional bill, although it is correct that some urban areas will undoubtedly first benefit as a result of its enactment to a greater extent than some other sections of the United States. However, I believe it is necessary for those benefits to be made available.

Mr. Chairman, I urge the adoption of this bill and hope we may soon see this new program in action.

Mr. PELLY. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from Washington.

Mr. PELLY. Mr. Chairman, I desire to inquire as to the language of the bill starting on line 20, page 21, which reads as follows:

SEC. 8. In order to assure coordination of highway and railway and other mass transportation planning and development programs in urban areas, particularly with respect to the provision of mass transportation facilities in connection with federally assisted highways, the Administrator and the Secretary of Commerce shall consult on general urban transportation policies and programs and shall exchange information on proposed projects in urban areas.

My question, Mr. Chairman, is: Does section 8, as quoted, provide for use of federally aided freeway and bridge systems rights-of-way in our urban areas for rapid transit?

Mr. WIDNALL. My answer to the gentleman's question is that this bill is intended to encourage the joint use of bridges and other rights-of-way for rapid transit and for highways.

Mr. PELLY. Mr. Chairman, if the gentleman will yield further, I would like to comment that in order to meet the growing congestion problems of our urban areas by highways only, the drain on Federal highway funds will be increasingly great.

On the other hand, with balanced transportation under which rapid transit systems handle a larger share of the peak-hour commuter traffic in these urban areas, the cost of constructing highways in these areas could be substantially reduced.

As I am told, one of the shortcomings of the Federal highway plan or program is that there has been no provision requiring Federal highway engineers to plan for mass transportation on these highways.

In my district, for example, in Seattle there is a new freeway cut running the full length of Seattle without a plan for mass transportation and also a new bridge on the east, across Lake Washington, which is without this important facility. Another access bridge to the city across the lake is in the planning stage now.

I would certainly hope, and I believe I have the assurance of the gentleman from New Jersey that this is so—that section 8 authorizes the use of highways and bridges for joint automobile and railway traffic.

Mr. WIDNALL. I would like to further assure the gentleman that such joint use would not mean the siphoning off of highway funds for mass transit purposes. The mass transit portion of the facilities would be eligible for assistance under this program and would be considered separate and would not represent something that would be added to the Federal aid highway program.

Mr. RAINS. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from Alabama.

Mr. RAINS. As I understood the gentleman, your answer to the gentleman from Washington was to the effect that these funds could not be used as a part and parcel of the Federal highway program; is that correct?

Mr. WIDNALL. Yes.

Mr. RAINS. If the gentleman will yield further, that is my understanding. Also, I wish to compliment the gentleman from New Jersey for a good speech and I want to also compliment him for his very diligent efforts in connection with the work which was done on this bill.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Do I understand the gentleman to say that the funds which will be provided under this bill could be used for the building of bridges?

Mr. WIDNALL. No; I did not say that, but in conjunction with existing Federal highway programs.

Mr. PATMAN. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. MULTER].

Mr. MULTER. Mr. Chairman, this bill, while coming to the floor for the first time, is not new to the committee or to the Congress. We have been introducing bills for this type of legislation for many years. During the last session of Congress it was my privilege to introduce the administration bill which was reported but, unfortunately, not acted upon. I am very happy that the bill before us now is authored and carries the name of the distinguished gentleman from Alabama [Mr. RAINS].

I am sure you join me in my unhappiness in knowing this may be the last piece of legislation the distinguished gentleman from Alabama will have the opportunity of sponsoring on the floor of the House. I am happy this piece of legislation will bear his name, because when it is enacted it will go down as a memorial to one of the greatest statesmen that the Congress has ever produced. His absence in future sessions of the Congress will indeed be a great loss to us here, and to the country. His service has been unstinting, it has been unselfish; he has been loyal and patriotic to the highest extent. The best tribute that I think could be paid to him is to borrow some of his own language that he used on the floor today when he indicated it is the duty of a Member of Congress not only to represent his district, but to represent the entire country, and that ALBERT RAINS has done throughout his service in the Congress of the United States.

Again, I say I am sure that you all join me in indicating that while we recognize this great loss to the Congress and the country, we wish him well in his future undertakings.

Mr. Chairman, as to the bill itself, may I say that this represents bipartisanship at its best. I recognize that there will be some Members on both sides of the aisle who will be opposed to it. Certainly all of the members of the committee and the bipartisan support it has received in the committee indicate that this is a piece of legislation we would like to see enacted in the best interests, not of any one area of the country, but of the entire country, so that each section—farmer, industrialist, and urbanite—can work together to continue to perform in the best interest of all of us as Americans.

I have heard it said that this bill is the beginning of a multibillion-dollar program. I for one will not deny that. This is the beginning or the start of a good program, and while we are calling for a small sum, comparatively speaking, for the beginning of this program, if it works well, then I can assure you future Congresses will not hesitate to authorize and appropriate the billions of dollars that may be necessary for this program.

This program will supplement the highway program, without which the

country cannot survive and, as has been so well stated here, as you have already heard, our cities cannot survive without this mass transportation bill. If the cities cannot survive, the rural parts of the country cannot survive either. You may say they are not dependent on each other, but they are certainly interdependent. They do need one another, and they compliment and supplement each other, and it is that which will make our country great if we can continue to have them work together side by side.

I am not fearful, and I urge you not to be fearful, of the fact that some tremendous figures will be thrown at you by the opponents of this measure indicating this program is about to cost the country billions of dollars that our children and our children's children will be called upon to pay. Our children and our children's children and their great-grandchildren will benefit from this program when it is enacted, and if it succeeds in doing the things we hope it will. If it should fail in the experimental stages, then we need not go any further, and will call a halt, and that will be it, and we will look for other ways and means of accomplishing this needed program, the needed solution for these problems that are crying for solution.

If it does work, as I hope it will and as most of the people who testified in favor of the bill have indicated it will, I am sure we will go on with this program. I cannot recall any other bill coming to the floor of the House that had practically the unanimous support of business, of labor, of management, of mayors, public officials, and Governors of all political faiths. They came in in droves and testified during the last session of Congress in support of the bill, and they then came in or sent in statements or repeated their testimony before this committee in this session of Congress.

I have heard it said, too, that the localities can borrow this money at cheaper rates of interest with tax-exempt bonds than we can do the job if the Federal Government should give these grants as called for by this program, that because that money must come from the Federal Treasury, we will have to raise it by borrowing. To the extent that we raise it by borrowing, and to the extent that the interest rate on those Government bonds is higher than the low interest rate on tax-exempt bonds of municipalities and States, let me call your attention to the fact that by and large it is only the big income earners, corporate and individual, in the highest tax brackets who buy these Government bonds, with the result that if you take off the income tax return or payments made on those bonds, those bonds are costing the U.S. Government less than the tax-exempt bonds.

I urge the committee to favorably report this bill to the House.

Mr. WIDNALL. Mr. Chairman, I yield 5 minutes to the gentleman from Utah [Mr. LLOYD].

Mr. LLOYD. Mr. Chairman, I oppose this bill, not because I fail to recognize a problem and not because the problem does not exist in my district. The problem does exist in my urban district where over 600,000 persons live along a narrow, hundred-mile strip, and I have been importuned by the private transit companies in this area to support this legislation. However, of significance is the answer to my inquiry to the mayor and city commissioners of our largest city, Salt Lake City, as to whether they wanted this legislation. They replied unanimously in the negative.

My opposition is based on the proposition that there are better, safer, and more reliable ways to cope with the problem, more consistent with the recognition of proper responsibilities by local and State government.

In pressing for reduction of the income tax, there were representations made by this administration that the reduction would be accompanied by conservative spending. Yet this bill, by authorizing the appropriation of a half billion dollars in grants opens the gate to a Federal financial obligation of from $4 to $6 billion, according to the Administrator of the Housing and Home Finance Agency in testimony before the Senate Committee, and in excess of $8 billion according to the judgment of others, and which are cited in the minority report on the bill. Before the House committee, the Administrator merely said:

> We cannot give you accurate figures on this now. We would be kidding you and kidding ourselves if we attempted it.

In other words, we are asked to go through a gate into darkness.

Unless we look upon greater Federal spending and greater Federal debt as a meritorious fact of life, we cannot look upon this spending authorization with anything but alarm. It opens up a vast new field of Federal service. It represents an outright grant. It is not repayable to the U.S. Treasury.

Second, the issue of increased centralism: The bill vests in the Administrator of the Housing and Home Finance Administration an authority, for example, in the establishment of criteria, which necessarily includes his approval of fares, which is a dramatic example of central power, and one which I as a citizen wishing to preserve local freedom and responsibility look upon with distaste and apprehension to say the least. It is stated that because Federal programs of urban renewal, public housing and the like have created a Federal responsibility within the core of a city, a responsibility of moving these populations within the city now becomes a Federal one. I agree that if the Central Government takes over this responsibility, it must be responsible also for the criteria, and since the drawing of criteria is principally an administrative function, this great authority must be given to an Administrator. So inevitably, step by step, the addition of this new Federal service must be accompanied by effective administrative power. This is efficiency. It is also centralism and if we add this authority to our Federal Government we must take the bad with the good. To me the bad outweighs the good.

I want to emphasize a third objection I have to the bill, not the last by any means, but the objection to which I would like to direct my principal emphasis. This is the establishment of a direct financial tie, undoubtedly a permanent one, between our local governments and our Federal Government, thereby bypassing State government. Unlike the highway program which involves State funds and which is State administered on the basis of decisions made at the State level, this legislation would eliminate the State as a responsible party. I recognize that language in the bill refers to the fact that the Federal agency may contract through a State authority, but this is principally lipservice. There is absolutely no responsibility placed upon the State. The local governments are invited to come to Washington directly, and who can doubt that local government will shun the State as a plague which can only get in the way of more expeditious charity from Washington?

I believe the relationship between State government and local government to be fundamental to the continuance of democratic government as we know it. In most States, local government is authorized to tax only by those methods allowed by the State. School districts, after exhausting local remedies for financing, turn to State government to help in equalizing educational opportunity throughout the State. Even Federal programs, such as public welfare, workmen's compensation, library services, mental health services, the highway programs, to name but a few, operate through State government.

In questioning the mayor of Boston who appeared before the House Banking and Currency Committee to testify in favor of this legislation, I asked the question as to whether the cities in that State had been authorized to levy a local sales tax. He replied that the attempt had been made by the cities, but that the measure had failed by one vote in the legislature of that State. So rather than going back to try again, he came to Washington.

In my view, the cities should go to their State legislature and ask either for local means of financing mass transit or for the State itself to assume responsibility. As a matter of fact, the State of Massachusetts has done just that, this month. The State legislature has authorized a $225 million bond issue to finance a comprehensive urban transit plan to be financed by an additional cigarette tax showing that the State will act. If the Federal Government undertakes this responsibility, how can we ever expect local and State governments to discharge local responsibility?

What is the role of the State? No one could have put it better than the Advisory Commission on Intergovernmental Relations, a permanent bipartisan body set up by act of Congress in 1959 to give continuing study to the relationships among local, State, and national levels of government. Its membership is drawn from all three levels of government.

In its report entitled, "State Legislative Program of the Advisory Commission on Intergovernmental Relations,"

dated October 1963, the Commission stated:

The States have a traditional responsibility for assuring that adequate arrangements exist for the provision of basic local governmental services, including adequate mass transportation. The States have an important stake in, and can play a key role in meeting existing and emerging metropolitan mass transportation needs. State policies with respect to taxation of transportation properties and the regulation of transportation rates and service have an important bearing upon the ability of private and public enterprise to provide adequate mass transportation service to metropolitan area residents. The State government is in a strong position to help resolve problems among conflicting local jurisdictions in providing coordinated mass transportation facilities and supporting adequate transportation planning on an areawide basis.

The report of the Banking and Currency Committee majority contains the following statement which calls for comment:

The financial difficulties of the State and local governments are even more acute than the jurisdictional difficulties. Many of our cities are faced with rising service costs and declining tax bases.

The disquieting factor about that statement is the intimation that if a local government is inadequately financed, it becomes the duty of the Federal Government to step in and take over what has in the past been the responsibility of local government. The question may be asked at this point whether the problem of crime is any less than the problem of adequate transportation within the city. Many would say that the problem of crime is the greater problem with greater interstate effect and since some cities can prove a case of financial need, should not it then be proper for the Federal Government to step in and finance and establish criteria for crime prevention and detection? It could be shown, for instance, that here in the District of Columbia, under Federal financing, there are about 4.5 police employees per 1,000 population, whereas under local government financing there is a national average of only 2.6 per 1,000 in cities of more than a quarter million.

To conclude, I repeat there is a problem, but it is a local one. We are asked to make a judgment that local government is incapable of solving this problem alone. The example of San Francisco and other cities argues against our making this final judgment. But if, as a last resort, the Federal Government should become a party to this responsibility, it should do so only on a basis which recognizes State government as the administrative and regulatory authority, through which any Federal funds should be channeled, and from which Federal funds should be at least substantially returned in due course to the Federal Treasury.

Mr. WIDNALL. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. FINO].

Mr. FINO. Mr. Chairman, I rise in full support of H.R. 3881—a bill designed to assist State and local agencies, not only in planning mass transportation facilities and developing improved equipment, techniques, and methods but also in financing areawide coordinated systems by means of grants and loans.

There should be no doubt in the minds of anyone that the continued growth of the national economy is dependent upon adequate transportation in metropolitan areas.

Transportation is the most important single factor determining the nature of future urban areas. Mass transportation is the key to other forms of transportation. However, all methods and modes of transportation must be coordinated into an overall system if our metropolitan areas are to continue to progress.

Transportation systems must be planned within the framework of all other urban planning and programing. Transportation must be an integral part of comprehensive land use and community development for entire urban areas—whether they encompass few or many political subdivisions and jurisdictions.

The Federal obligation to assist State and local bodies is evidenced by many other programs such as urban renewal.

The Bureau of Public Roads cooperates informally with other agencies concerned with urban planning in the location of new or improved urban highways under the Federal aid highway program. Without such aid many communities would have been unable to finance these activities.

But highways are only one of the necessary components of an adequate transportation system and plans and programs must be evolved to develop a balanced transportation system consistent with the present needs and future development of the economy.

This bill, H.R. 3881, Mr. Chairman, will contribute toward resolving many of the most important transportation problems in the metropolitan areas. Its purpose is not to take over the responsibility of the State and local agencies but to supplement their efforts. Historically the Federal Government has aided and encouraged all forms of public transportation from the early days of this Nation.

This bill would extend financial aid to the efforts of State and local agencies in planning the equally important mass transportation facilities in metropolitan areas.

As we become more and more a Nation of urban dwellers, the role of transportation becomes increasingly important.

Traffic congestion is not only the concern of the people in the congested areas but also a national concern. Problems which affect the welfare of some two-thirds of our population must be the concern of the Federal Government.

In many of the metropolitan areas mass transportation service has declined or disappeared. At the same time the population has grown and become more widely dispersed away from the central cities, creating the need for increased mass transportation facilities. Meanwhile the remaining facilities have been deteriorating and service becoming less adequate, resulting in still less use of public transportation.

Diminished financial resources have resulted in poor service and inadequate equipment. State and local governments are hampered in efforts to solve this problem by constitutional debt limits and diversity of political jurisdictions.

Federal cooperation is needed to help solve problems which cross political and geographic boundaries. We do have metropolitan areas but no metropolitan governments.

This serious problem is not confined to the large metropolitan areas such as New York, Chicago, Philadelphia and others, but it faces smaller communities and cities as well.

It has been reported that over 70 cities with populations of 25,000 and over are without any mass transportation service. This bill would help these less publicized communities as well as the larger, more publicized cities.

As urban population grows, each and every mode of transportation will be needed to facilitate the movements of people and goods. Mass transportation must provide superior service to gain increased patronage.

The highway programs, the urban renewal projects, and all urban planning assistance programs will become more effective with the passage of this bill.

Despite the existence of one of the most highly developed and diversified transportation systems in the world, public transportation in the United States has not kept pace with the growth and increasing needs of urban areas.

The metropolitan areas are the backbone of our national strength. Their continued growth and consequent contribution to the national economy depend on adequate transportation systems within the areas as well as between them.

Before concluding, I would like to bring to the attention of the Members the deep concern of the executive director of the Port Authority of New York. At a recent conference of urban transportation, Mr. Austin Tobin, the director, reiterated the inability of States and cities to underwrite the capital requirements of mass transportation facilities, though they can underwrite operating deficits. Equipment needs exceed their financial resources and they "have a right to expect the Federal Government to be as interested in moving city workers as in shipping wheat and rock phosphate down the Arkansas River."

I firmly believe that the provisions of this bill are the best and most practical way in which we can help solve this mass transportation problem in this country.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. FINO. I yield to the gentleman from California.

Mr. MAILLIARD. Mr. Chairman, in my opinion, H.R. 3881 is one of the most vital and most urgent matters that we can consider. As we all realize, the breakdown of transit facilities in our urban centers directly affects the livelihood of not only urban dwellers but the Nation as a whole. Representing, as I do, one of the Nation's great cities, I appreciate the far-reaching impact that an urban area has upon its surroundings. It may be the headquarters of major technical and industrial corporations, the hub of nationwide rail transport, the

center of foreign and domestic commerce or the financial capital of the region. Rural and suburban interests as well as our total national economic effort depend upon the vitality and efficiency of our urban centers, and yet it now appears that our cities face unwelcome social and economic restraints from overburdened transportation networks. Each year urban population increase continues to outstrip adequate transit facilities, forcing passengers to switch to auto transportation which in turn has led to costly, time-consuming traffic congestions and increased air pollution in our cities. With blockage of major supply lines and decreased mobility, our urban areas are being threatened by a strangulation that impairs not only urban activity but every segment of our economy. When we consider that the United States is becoming increasingly urban in character and activity, that many of our metropolitan areas already cross State boundaries and that the welfare of all our citizens depends upon the progress of our cities, I cannot see how the problem of urban transportation can be considered anything less than national in character.

I also understand that urban mass transit constitutes an area in which each dollar of Federal assistance will yield several dollars in savings and benefits. Our studies in the San Francisco Bay area shows conclusively that we spend less money and get greater benefits if we support the development of comprehensive metropolitan transit systems. San Francisco and similar metropolitan areas throughout the Nation will be better able to plan more consolidated and efficient transit programs if Federal assistance is made available under this act.

I do not in any way wish to disparage State and local efforts in meeting urban transit problems. I can only point with pride at the great strides being made in San Francisco by the local bay area rapid transit district. But even in this progressive metropolis, Federal funds would generate an estimated $50 million a year in measurable benefits for riders of the system by making completion of our network 3½ years sooner and would make feasible extending the benefits of rapid transit to those two bay counties which were initially unable to join our system due to problems of financing. I am convinced that other urban areas which have either begun transit improvements or plan such improvements would also benefit in time and savings through Federal assistance.

I clearly recognize that this legislation cannot provide for our present and future transportation needs without an initial increase in Federal expenditure. But I firmly believe that Federal funds allocated for comprehensive urban transit systems would save money in the long run if these urban areas can avoid additional massive and costly freeway construction under the Federal highway aid program.

Many of our urban centers attempt to avoid the dilemma of mass congestion by constructing complex and expensive freeway systems which only tend to attract more automobiles and drain local revenues that could be used for transit improvements. The projections of future population growth point to the inescapable conclusion that there simply is not enough ground space to accommodate the freeways nor the parking areas required in the next two decades and yet have enough left over for the vital space requirements of industry and urban dwellers. As a matter of fact, the citizens and officials of San Francisco have over the past years resolutely refused to accept any new freeway construction because of the vast amounts of land they would require, the municipal disruption they would cause, and the prohibitive expense they would incur, hoping as they do that improved mass transit facilities will largely supplant the need for freeways.

As all of you know, my own State of California has been in the forefront in construction of freeways in and out of metropolitan areas, and yet from personal observation and through my dealings with our State's program during the time I served as secretary to the Governor of California, I have seen freeways become obsolete before completion, and I have become quite certain that a total reliance upon freeways as an alternative to mass transit improvements can never be an adequate solution to mass congestion in our urban areas. This raises a very disturbing thought: in the next few decades, the Government plans to spend billions of dollars on the construction of urban highway systems that will only serve to further complicate, rather than to solve, urban transportation problems. I believe that if Federal funds are going to be spent on urban transportation, investment in mass transit improvements will be far more economical and beneficial than investment in freeways.

The cost of inaction increases as we delay passage of mass transit measures. Since 1957 I have been urging the Congress to give its attention to urban transit problems: during these years we have seen the localities struggle to retain present transit facilities while failing to provide for future transit needs, many communities have been forced to undertake costly and uncoordinate freeway systems, we have felt the ill effects of air pollution and traffic congestion in our cities. Superior mass transit systems are needed to work with existing freeways to alleviate our present and future transportation problems. We have in H.R. 3881 the means to attain this objective and the responsibility to insure its achievement. I urge your support of this measure.

Mr. SIBAL. Mr. Chairman, will the gentleman yield?

Mr. FINO. I yield to the gentleman from Connecticut.

Mr. SIBAL. Mr. Chairman, to grasp the compelling need for this legislation one has only to drive along the so-called freeways or expressways leading to and from our major cities and experience one of the monumental traffic jams which has become a distinguishing feature of life in America today. If that is not enough, one has only to ride the commuter trains such as the New Haven Railroad, which serves my district.

Either experience will drive home indelibly the fact that our national transportation facilities are in terrible condition and are deteriorating rapidly—so rapidly that they may be beyond restoration if we, in Congress, do not take action.

Our existing facilities are irreplaceable. They are assets vital both to the national defense and the national economy. They must be preserved as foundations on which to build.

This is truly a national problem, not merely a regional one.

It is estimated that it would cost more than $30 billion to provide highways to move the same number of people now being carried by railroads into just the five cities of New York, Chicago, Philadelphia, Boston, and Cleveland.

Today, 70 percent of the population lives in 170 metropolitan centers. In another 10 years or so, it is expected that 80 percent of our people will live in these areas. Clearly, everyone in the country is directly affected by mass transportation problems. Even the farmer living in the most remote section of the country is directly concerned, because if railroads continue to lose millions of dollars in metropolitan commuter operations, as they are now doing, freight revenues will have to go up to recoup these losses. This will affect and does now affect the price of every commodity and manufactured article used in the economy. If mass transportation services are allowed to collapse or, even if we do not act to enlarge them to meet our future needs, the funds necessary to move people by highways will soar beyond the financial capacity of the Nation.

These grave problems cannot be solved on a solely local and regional basis. A large part of the problem is that the metropolitan areas in most cases stretch across local and State boundaries. There are simply no central jurisdictions with authority to plan and provide facilities even if they had the tax resources to do it.

The problem is of supreme importance to my area. Yet, there is no central agency that can deal with the commuter problem and the New Haven Railroad. Connecticut has extended tax relief and other assistance but the railroad is bankrupt and losing money. It can raise its rates no more. Its equipment is wearing out; its services are being cut back.

While our situation is particularly acute, it is duplicated with local variations elsewhere in the country.

This bill will not solve all of these problems but it will provide, for the first time, a basis for Federal, State, and local cooperation. It is an essential first step. I strongly urge its passage.

Mr. WIDNALL. Mr. Chairman, I yield 10 minutes at this time to the gentlewoman from New Jersey [Mrs. DWYER].

Mrs. DWYER. Mr. Chairman, House passage of the pending legislation, the mass transportation bill, is vitally important to the State of New Jersey and to every State which contains within its boundaries a metropolitan area of growing population—and this includes most of our 50 States. As a sponsor of mass transit and related legislation for the past 7 years, I have seen a growing realization among our colleagues that this is

a national problem of immense and almost unpredictable consequences, and I urge this House to begin the work of solving it without further dangerous delay.

In determining the nature and scope of Federal responsibility for mass transportation, the key consideration, it seems to me, is the fact that improved mass transit facilities in our country's heavily populated urban areas promises better service, lower cost, more economical use of scarce land, and higher property values and tax revenues than we are now obtaining from our existing policy of excessive reliance on automotive transportation.

No one questions any more the basic responsibility of the Federal Government for maintaining an adequate national transportation system. We simply cannot exist without it. In recognition of this fact, the Government heavily subsidizes air transportation and highway construction, for example, and closely regulates all forms of interstate transportation. Although I do not dispute the need for such subsidy and regulation, a direct result has been to unbalance severely the transportation system generally. We have succeeded in dramatically increasing the speed of travel between cities by air and by turnpike, superhighway, and freeway, but as often as not once the traveler reaches the airport or the outskirts of a major urban area he is unmercifully dumped into a morass of bumper-to-bumper traffic.

Today, a person can drive from Washington to New York City during the off hours in 3½ hours, thanks to the hundreds of millions of dollars of superhighway construction in recent years. But during the rush hours, that last half-hour can stretch into a maddening hour and a half to 2 hours, virtually destroying much of the benefit of the new speedways. Likewise, the flying time from Washington to New York is less than 1 hour, but the trip from the airport to the city can take twice that length of time.

This is the price of the unbalanced transportation system we have built. It is even more serious for the millions of commuters between suburb and central city whose entire travel time to and from work is spent under these unnerving conditions. Most of us, I feel certain, have experienced personally the harrowing effects of mammoth traffic jams, but for those who need convincing I recommend a helicopter flight over a major metropolitan area during the time commuters are driving to or returning from work. Earlier this year, I made such a survey by helicopter of the principal highways in the Newark and Union County, N.J. area used by commuters. The picture of thousands upon thousands of automobiles creeping and crawling along broad highways which became outmoded almost as soon as they were completed is, I can report, dramatically persuasive of the urgency of the commuter traffic problem.

The details of the problem may differ somewhat from one metropolitan area to another, but the substance and seriousness are the same everywhere. In the New York area alone, one-tenth of the Nation is involved. But, as our committee hearings demonstrated, the situation is just as urgent in Boston, Philadelphia, Pittsburgh, Cleveland, Chicago, Atlanta, Denver, Los Angeles, San Francisco, and many other areas. More important, every month that passes makes the problem worse and more expensive to solve. That this is a national problem should be clear from its size and scope alone and from the fact that there is no essential difference between building Federal highways in urban areas and supporting mass transit systems located in the same areas and serving the same people.

The challenge which now confronts the House, Mr. Chairman, is to break the vicious cycle which clogs the highways with more and more unnecessary automobiles at peak traffic hours and drains the bus and rail facilities of the passengers they need to maintain and improve the quantity, convenience, and quality of their mass transit services. The passengers would not return until more service is provided in better facilities at lower cost. Commuter railroads and buslines cannot provide improved service without higher revenues, either from paying passengers or public subsidies, or both. In the meantime, buslines go out of business, railroads abandon commuter trains, and the demand gets louder for more and bigger highways to rescue traffic-jammed drivers.

My own State of New Jersey, which is probably as heavily dependent on adequate passenger transportation of all kinds as any State in the Nation, illustrates this situation all too readily. An estimated 150,000 New Jersey people commute to and from New York daily—90,000 in the 1-hour period from 8 to 9 a.m., 50,000 by highway and 40,000 by rail. In just 1 county, the county I represent in Congress, approximately 60,000 people go out of the county to work and an equal number come in to the county to work from adjoining areas. Yet, in the face of this huge demand for transportation service, and of a rapidly growing population, rail and bus facilities have decreased while fares have increased. No less than 24 percent of railroad passenger trains have been discontinued in the last 10 years. And the threat of further major discontinuances hangs over our State at this very time.

The question we must answer is not whether we can afford the cost of a mass transportation program but whether we can afford not to undertake such a program. People and goods have to be moved—one way or another. And there is no longer any doubt that it costs a great deal less to move people by mass transit than it does by highway. This is not to say that highways are not necessary or that more highways will not have to be built in any event simply to keep up with the growing population and economy. But it does mean this: on the one hand, improved mass transportation can ease the strain on existing and future highway needs and, on the other, failure to halt the loss of mass transit facilities will vastly increase the need and the cost of new highways, assuming we can find the space and the money and overcome the resistance to build them.

These generalizations can easily be documented. In Washington, D.C., for instance, one study concluded that each new suburban resident who chooses to drive his car to work in the city requires an added public investment of $23,000 above the cost of express bus service, plus an extra $9 a day to service the debt from this investment.

As our committee report shows, for another example, it would cost $31 billion to build the highways needed to accommodate only those passengers now being carried by rail in the five cities of New York, Chicago, Boston, Cleveland, and Philadelphia.

More specifically, a 1959 study by the Pennsylvania Railroad compared the construction costs necessary to handle increased peak-hour loads by rail or by automobile from the suburbs served by this one railroad in the Philadelphia and New York metropolitan areas. In Philadelphia, the ratio was seven to one in favor of rail; $465 million to provide additional rail facilities to handle 120,000 passengers per hour as opposed to more than $3 billion for an equivalent capacity by automobile. In New York, the ratio was even higher, 16 to 1: new rail facilities to carry 80,000 passengers an hour would cost $748 million, while new highway facilities would cost $7.8 billion.

These examples can be multiplied indefinitely, Mr. Chairman. They demonstrate conclusively that mass transportation is the only alternative, the only way out of our dilemma. We have neither the space nor the money to continue to rely on the private automobile for a growing share of transportation service in urban areas. The steady shift of our population to urban areas—and more than two-thirds of our people already live in these areas—is increasing. And since 1958, the number of persons annually reaching the age of 18—the age when most people begin to drive and obtain their own cars—has been rising at record speed as a result of the extraordinarily high birth rates of the 1940's. The data on government expenditures for streets and highways, reflect these trends. From 1949 to 1959, annual expenditures rose from $3.9 to $10.5 billion, a rate of increase about 2½ times as great as the increase in national income during that period. Obviously, we cannot continue to spend on highways at this bankrupting rate. And the complaints from State after State that they cannot keep up with their highway needs testify that we have reached the limit.

Fortunately, mass transportation on a much larger scale than we have ever known it is not only the sole alternative to traffic strangulation, but it is a positive, practical, and proven alternative. We have the technology to produce the fast and comfortable transit cars and buses and related facilities. We have the advanced planning necessary to build truly integrated, coordinated, and well-balanced rail-highway transportation systems. And we have the incentive to implement this potential, if we will only recognize it, in the lower costs, greater efficiency, and overall increased convenience of mass transportation.

The city of Toronto, Canada's second largest with 2 million people living in the metropolitan area, and a city comparable in its transportation needs to many in the United States, illustrates the truth of the claims for mass transit. About 800,000 people commute daily to the central city where, 10 years ago, according to U.S. News & World Report, auto travel was "a nightmare of creeping motion, punctuated by stops, starts, and stalls."

In the past 10 years, however, Toronto has built a 6½-mile-long subway under the heart of the city which is the core of a fully integrated bus-streetcar-subway system. Subway trains alone carry 250,000 passengers daily and have eliminated from 10,000 to 25,000 automobiles on downtown streets every working day. To move these subway riders in private autos, officials figure that at least 20 lanes of expressways would be needed through downtown Toronto.

The results have been spectacular. Traffic now moves freely for those who need or want to drive their cars, but the transit system has proved cheaper, faster, safer, and more convenient than driving. The subway has also revived the midtown area, setting off a boom in new office and apartment building, greatly increasing property values, and adding to the tax base to such an extent that the new tax revenues from the area of the subway route are sufficient to equal both the capital outlays and the carrying charges for the initial subway system. The system has been so successful, in fact, that Toronto plans to extend it from 6.5 miles to 20 miles soon and by 1980 double it to 40 miles.

In Chicago, an abandoned transit line was reactivated on the basis of improved service coordinated with parking and feeder-bus facilities. Estimates in advance of the program indicated the project might double the number of riders from approximately 750 a day before abandonment to as many as 1,550. In fact, however, the line is now carrying 5,000 passengers daily and plans to double its schedule of service.

More modest demonstration projects in the New York-New Jersey area, which are still in operation, are demonstrating impressively that improved feeder bus service, more ample parking, and the provision of specialized and well-equipped commuter passenger station service will substantially increase rail commuter transportation between suburbs and central cities.

The evidence of what needs to be done and what can be done with mass transportation is abundant, Mr. Chairman.

In Massachusetts, the Governor has just signed legislation creating a transit authority for Boston and its 77 suburbs and authorizing the expenditure of $255 million for planning and building a commuter transportation system.

And in my own New Jersey, Mr. Chairman, where the State government has been subsidizing the continuation of rail commuter service, the Governor has signed legislation increasing the subsidy and providing funds for a substantial rerouting of rail service to New York.

These are only a handful of examples of the needs and opportunities for saving or building sound passenger transportation facilities in those areas of the country where most of our people choose to live. Many of the States are making truly valiant efforts to stay ahead of the tide of people and cars. But all of the States which are in this predicament have been frank to seek the partnership of the Federal Government. They do not expect the Federal Government to take over their responsibilities. But they do look for help—the marginal kind of help that can make the difference between success and defeat for their efforts.

I hope the House will respond to their pleas for help. If we are genuinely interested in economic progress and in serving the people we represent, then we shall do so and approve this legislation.

Mr. Chairman, I urge the House to pass this much-needed legislation.

Mr. RAINS. Mr. Chairman, I yield 5 minutes to the gentlewoman from Missouri [Mrs. SULLIVAN].

Mrs. SULLIVAN. Mr. Chairman, I was most interested in the remarks of my colleague, the gentlewoman from New Jersey [Mrs. DWYER], who just preceded me.

Every Member of this House has been terribly inconvenienced, to say the least, by the congestion and strangulation of traffic in our cities. Each one of us, every night, experiences unconscionable delays in going just a few miles to our homes or apartments. This sort of thing happens every morning and every evening in every major city in the Nation, and in frequent other periods during the day and at night. Traffic moves at a snail's pace, tempers fray, motors overheat, people wilt, drivers become impatient and take chances and risk accidents, and all too often strike pedestrians while trying to get through intersections while the lights are changing. I suppose the National Institutes of Health could do a revealing study on how many heart attacks, along with accident injuries, can be attributed to the impossible conditions under which people get to and from work each day, or to and from the theater, or meetings, or other events at night. Why do we put up with it?

Passage of this bill—a bill carefully and thoroughly considered in the Committee on Banking and Currency in several Congresses and now shaped into a form which will make it acceptable as well as practical—passage of this bill will not automatically mean the end of traffic strangulation in our cities. It will be a major weapon in fighting urban mass immobility, but it will not solve the problem alone. On the other hand, the problem will never be solved without this kind of beginning.

Some Members may say with all candor that in their less crowded areas of the country, mass transportation is not serious enough a problem to justify this kind of an all-out attack. Perhaps that is so at the moment—but as Congressman RAINS has said to you, also, that does not absolve any Member from the responsibility of having an interest in the solution of the problems all of our major cities are struggling to solve in the movement of people to and from the center of town. If their towns are placid and uncrowded now, the chances are, with the tremendous growth in population, and the spread of industry into new areas, and the development of all of our communities, the problems of mass transportation now experienced by St. Louis and other cities will also be coming to roost soon in smaller cities and towns.

SMALLER COMMUNITIES NOW BENEFITING FROM PREVIOUS "BIG-CITY" LEGISLATION

I would say to those Members, therefore, Mr. Chairman, that if it is not their immediate problem now, it will be—unless they help us solve our urgent problems of urban transportation. Many Members once thought urban renewal and slum clearance programs were useful only to big cities; now they find their own districts deeply involved and needing help. They should therefore be glad that the urban area Members led the fight here in previous years to set up the programs that now mean rebirth and new life for many smaller communities which were dying in blight.

Most American families are travel conscious, and anxious to see the great country of which they are a part. We have the magnificent Interstate Highway System to help them speed from one part of the Nation to another. But much of the greatness of our country is in our great cities, and when citizens from the rural and small town areas come to the big cities—as they do in increasing numbers—they experience what those of us who live in those cities must undergo every day in getting into and out of the center of town. I have spent hours in trying to persuade Members from districts which do not include large cities that they should vote for this bill because it is not only good for our cities—it is good for America. We are all part of one vast and wonderful country. We all have obligations to the entire country—to help make it into a better America. One of the urgent needs in that direction is better urban transportation, and this bill is necessary to provide it.

Mr. RAINS. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. ASHLEY].

Mr. WAGGONNER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN (Mr. Moss). The Chair will count. [After counting.] Thirty-one Members are present, not a quorum.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 166]

Ashbrook	Hansen	Pilcher
Auchincloss	Harsha	Powell
Avery	Healey	Quie
Barrett	Hébert	Randall
Bass	Hoffman	Rogers, Tex.
Bennett, Mich.	Holifield	Roosevelt
Bow	Ichord	Schadeberg
Bray	Kee	Scott
Buckley	Kilburn	Senner
Cameron	Kilgore	Springer
Davis, Tenn.	Kirwan	Staggers
Evins	Lankford	Toll
Forrester	Long, La.	Tuten
Green, Oreg.	Miller, N.Y.	Willis
Hall	Morrison	

Accordingly, the Committee rose; and the Speaker having resumed the chair,

Mr. Moss, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 3881, and finding itself without a quorum, he had directed the roll to be called, when 390 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. ASHLEY] for 5 minutes.

Mr. ASHLEY. Mr. Chairman, the bill before us today is responsible legislation because it is responsive to changes which are transforming the face of our Nation and the living patterns not only of this generation but of generations to come.

The minority report suggests that the need for mass transportation facilities is limited and that to the extent that a problem exists, it is simply a local one which can be met by local initiative.

I submit the facts are very much to the contrary and that the need for mass transit is probably the most overlooked and neglected problem in America today. The reason for this, I believe, is to be found in the tremendous emphasis that has been put on investment in highways, freeways and urban expressways since World War II and in the increased ownership and use of automobiles. Since the end of World War II, Mr. Chairman, State and Federal Governments have invested nearly $130 billion in highway construction and the number of automobiles skyrocketed from 30 million in 1946 to 83 million at the end of 1963. Small wonder that this upsurge in private conveyance has been accompanied by elimination of many transit systems and the doubling of others caught in the squeeze between higher costs and lower revenues.

And yet it is plain that private automobiles are not the answer to the transportation problem in the cities today—just as it is plain that more cars and more expressways will not be the answer 10 years from now—or in 40 years when our population has doubled.

In the immediate years ahead, three out of four Americans will be living in urban centers which occupy only 2 percent of our Nation's land area. Clearly there is a need for mass transportation and it is just as clear that this need is not local in character. It affects directly our national welfare because it affects the health and safety of most Americans, the way we live and the way we work.

Mr. Chairman, our transit systems today are not meeting our needs and the testimony of scores of public officials who testified on this bill establishes the fact that the capital investment necessary to develop efficient transit systems is beyond the resources of most communities. In 1961 Congress acted to meet this problem but the tools that were made available then simply have not been sufficient to get the job done or even well underway. The loan and demonstration grant authority contained in the Housing Act of 1961 was only intended as a stopgap measure, with emphasis on experimentation. This is no longer enough. We now need a long-range program of loans and grants for efficient, carefully planned transit systems capable of playing a major role in the movement of the increasing numbers of citizens whose lives will be spent in our growing metropolitan areas.

Mr. WIDNALL. Mr. Chairman, I yield 15 minutes to the gentleman from Ohio [Mr. OLIVER P. BOLTON].

Mr. OLIVER P. BOLTON. Mr. Chairman, the distinguished Member who just preceded me, the gentleman from Toledo, indicated that the minority report advocated a limited approach to mass transportation. Contrariwise, I would suggest to him that the limited approach is the Federal approach, because it is limited by the amount of Federal appropriations from year to year. Instead of that, if the problem is handled on a local level it will be handled as the need demands.

I think a real answer and example of that is one that was brought out by a statement of the gentleman from Alabama when he stated that all the mayors who testified before our committee were for this program. You bet they were. And let us take an example of two of them. A group came in from San Francisco. What was their situation? They had a bond issue passed, and a plan which was ready to be carried out. Why did they want Federal help? Oh, yes, they said it would help them move forward faster. But they asked for Federal help, not to add to the transportation plan they were going to put in effect but rather to cut the local taxes which the local taxpayers had agreed to by an overwhelming vote.

Let us take my own city of Cleveland. Here we have an extension of the mass transit system approved by the bondholders, approved by a transit board 3 to 2. After that approval, 2 weeks later, it was suddenly reversed, and two of the majority changed their position. Why? Because there is the hint of Federal assistance coming along, with the result that the transit system extension in Cleveland has been indefinitely delayed until the Federal carrot can be applied to that poor rabbit.

Mr. Chairman, though this bill deals with mass transit in its wording, it is far more than that in its effect. In actuality, it is the keystone in the arch of Federal domination and control of every town in the country. This bill, through the approach of Federal handouts, accomplishes indirectly what this Congress refused to authorize; namely, it sets up the Administrator of HHFA as the czar of all urban affairs.

Already he is in charge of urban renewal, slum clearance, open space, and housing—to mention but a few. Transportation is the glue that binds them all together—and the carrot here is so great that the rabbit will not dare do anything necessary to get it.

A reading of the bill clearly indicates that the standards established for the Administrator's action are so broad and his discretion so great that he could place almost any requirements upon the areas affected. For example, section 4A of the bill specifies that "no Federal financial assistance shall be provided pursuant to section 3—Federal financial assistance—unless the Administrator determines that the facilities and equipment for which the assistance is sought are needed for carrying out a program, meeting criteria established by him, for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area and are necessary for the sound economic and desirable development of such area."

Thus, though the community may have a small burden of proof to meet rules established by men—not laws—nonetheless the final say lies with the Administrator. If the local plan calls for a lateral system of monorail transportation, and the Administrator prefers a loop subway system connected by buslines and does not like monorail, I will give you one guess as to what kind of system the city will put in.

One of the reasons for not favoring monorail is that it sticks up in the air and does not necessarily improve the landscape. Under the terms of this bill, the Administrator could turn down a locally conceived transportation plan based on a monorail system purely because it does not fit in with the esthetic design of the high-priced urban redevelopment plan which he approved the week before.

I need hardly recall to your attention that less than a year ago President Kennedy, through his District adviser, injected himself into the development of the District of Columbia and required the delay of major portions of the Interstate Highway System here because of his fear that it would interfere with the esthetic beauty of certain sections of this lovely city. A closer parallel to what I am talking about could not be drawn.

But let us look even further. If this is a transportation bill, why is it not under the Department of Commerce where there is an Assistant Secretary for Transportation, where there are transportation plans being submitted from all over the Nation at a cost of tens of millions of dollars and where there is expert knowledge of transportation matters? Why has it been put in the Housing and House Finance Agency, a branch of Government which concerns itself with many of the sociological plans and intervention in local living in which our Federal Government is presently engaged?

Mr. RAINS. Mr. Chairman, will the gentleman yield?

Mr. OLIVER P. BOLTON. I yield to the gentleman from Alabama.

Mr. RAINS. I believe the gentleman had better take that up with the Parliamentarian. It is before our committee because we have jurisdiction over it.

Mr. OLIVER P. BOLTON. I understand that. My question is, why was the bill drawn to put mass transit in the Housing and Home Finance Agency?

Mr. RAINS. Does the gentleman know any way in which it could have been drawn—any other way?

Mr. OLIVER P. BOLTON. In the same way the Highway Act was drawn,

to put it under the jurisdiction of the Commerce Department.

Mr. RAINS. Does the gentleman not agree that this is a problem tied into city development and tied even to housing and urban renewal?

Mr. OLIVER P. BOLTON. I do not want to yield further, but I appreciate the gentleman's frankness, because I was just going to point out that when the question came up in committee he stated frankly that this legislation was drafted and patterned after the Housing Act, not after any Transportation Act.

This bill contemplates that one governmental unit with the responsibility for transportation would be established for an urban area. This unit would be created either by State enabling legislation, by contractural agreement between the governmental bodies within the unit, or perhaps by referendum. Such an approach has merit, inasmuch as it requires an examination of the total transportation problem of an entire area, regardless of the historical political boundary lines.

However, once this area transit authority is created, all matters regarding transportation plans, loans, grants, et cetera, in which the Federal Government is involved flow between that body and the Federal Government. Therefore, under this bill we are rewriting the political subdivisions of our country. We are bypassing State government. We are bypassing city government through the mechanism of the Federal carrot. We are setting out to create, on the one hand, a dominant centralized bureaucracy, and on the other hand, a governmental body much akin to the city states of ancient Greece.

Such was not the case under the highway program. There, the States are an integral part of the planning and supervision of the construction of our national highway system.

Under this bill the administrator has a club which gives him powers over the communities which override those even of their own mayors and other elected officials.

For example, what if, as part of his price for approving the local transportation plan, the Administrator felt the zoning laws of the urban area should be be changed? Or, as suggested should be done by my distinguished colleague from Cleveland [Mr. VANIK], the Administrator felt the assessments of real estate adjoining rapid transit properties should be changed to comply with his formula? What city council—what county auditor or treasurer could withstand the pressure to change if that was the price required for an urban grant of the size we are talking about?

In effect, as we point out in the minority report, this bill makes the Administrator of the Housing and Home Finance Administration the Federal mayor of every main street in this country. I can conceive that a forceful Administrator could utilize this bill—in conjunction with powers granted him under other authority such as the Housing Act—to control not only the physical development of a city, in terms of bricks and mortar and streets and buildings, but also the social and human life of that community. I object to this bill because it not only contains the germs of the destruction of the historical political governmental relationships of our country, but I am opposed to it because it places in the hands of one bureau the potential control of the standards of living and even the conditions of life at our urban centers.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield briefly for a question?

Mr. OLIVER P. BOLTON. I yield briefly to the gentleman.

Mr. ASHLEY. I am wondering whether the gentleman is against this bill or against any bill that would seek to lend Federal assistance to cities and municipalities in trying to solve this mass transit problem.

Mr. OLIVER P. BOLTON. If the gentleman will permit me, I think I will answer his question at a later point in my remarks.

Some have criticized me for such "dubious fears." Let me make clear that I would rather pass up a mess of pottage any day than give up the rights of the people I represent to have a voice in their local government, and I will pass up that same mess of pottage if it requires local government to become even more of a mockery than it is today.

You may say, how about the housing bill itself—urban renewal, slum clearance, and so forth? I say to you, once we get a tax policy that will return the ability to the urban areas to carry out such work, these Federal programs will become unnecessary and as I said under the debate—under the rule—I hope the Ways and Means Committee will do this next year in revision.

I say to you, my good friends who favor Federal direction and big government, what is wrong? Do you not trust the people? Do you feel our opinion, or that of "the experts" in the bureaus, of what needs to be done superior to that of the people themselves? Do you have so little faith in local government, in differences rather than in uniformity? You do not so profess in your declaration of policy. Then why not give State and local governments the full financial ability possible and let them work out their own priorities and their own solutions to these local problems.

Ours was a central government of limited powers—all others being reserved to the States and local governments—close to the people, where they can follow it.

But if my reasoning so far seems too philosophical and impractical, let us look at other aspects of the transportation situation. What is the cost of this program upon which we are asked to embark? The proponents piously point to a modest figure of $500 million over a 3-year period. Which I now understand will be at $375 million. I doubt if there is anyone in this House so naive, however, as to believe that it will end there. This is merely a foot in the door for another large Federal aid program.

The proponents also state that the Federal Government's share—or as our chairman, the gentleman from Texas [Mr. PATMAN] would express it, the Federal seedcorn money—can only amount to two-thirds of the Federal project cost, or, that portion of the cost which the Administrator estimates cannot be met through local funds and through the fare box. The Comptroller General fairly well hit the kernel on the head, however, when he stated:

> We believe that if the administration's concept is fully implemented, most projects will receive Federal and non-Federal grants equal to nearly 100 percent of a project's cost.

Testimony of many other witnesses indicated that the farebox might carry the operating costs, but that local and Federal assistance was required to provide the capital equipment.

It has been estimated by some that the cost of the mass transit plans for 26 communities would be in the neighborhood of $10 million but these estimates are based only on large metropolitan areas and even then, in my opinion, fall far short of the mark when one considers that new subway construction, along with the purchase of stations as well as rolling stock and rights-of-way which are contemplated.

Nevertheless, regardless of the staggering costs, which may have to be faced, if the real need exists, we must get it done.

Let me emphasize that I am one who believes that mass transit—and good mass transit—is a necessity for any highly urbanized area. I do not need statistics to know that. I am all too well aware of the difficulty of getting around which exists for our senior citizens, our youngsters, for all those who are either physically or economically unable to drive.

But before I embark on a large program involving the expenditures of Federal funds, I want to see more clearly where we are going.

Just the other day, this Congress raised the national debt to $324 billion—the seventh time that the debt limit has been raised since 1961.

Not too long ago, we passed, and I voted for, a tax reduction bill with the serious assurance of the chairman of the Ways and Means Committee and of the majority leadership that the administration intended to hold the line, to run a tight budget, and to initiate no new spending programs. Just this morning, we find a glowing article in the newspaper to the effect that the budget will not be $11 billion in the red this year but only somewhere above $8 billion.

Let me recall to this committee that when the $40 billion interstate highway program was initiated, the carefully drafted legislation which established it was drawn up only after many years of research—20—and engineering had clearly indicated where the greatest needs for new highway construction existed, unlike this bill which is designed to give assistance to every area of 2,500 population or more in order to gain votes on the floor of Congress. The interstate highway program varied by billions of dollars in the amount of Federal aid provided to each of the States. It was based on needs established by careful engineering reports.

Let me remind my colleagues that under the Federal Highway Act of 1961, all

cities of 50,000 population or over are required to submit, or be well on the way toward submitting, a complete and comprehensive transportation plan for its area by July 1, 1965.

The Federal Government is investing millions of dollars—100 million to Bureau of Public Roads—along with the States and municipalities, in the preparation of these plans. These plans are not highway oriented, they are directed toward a balanced transportation system and vary widely from area to area as each area expresses its own opinion as to its needs and requirements for solving them. I submit to the House that any Member who served on a board of directors of a company and authorized the expenditure of company funds for an engineering report—and then proceeded to take action without awaiting the results of this engineering study would be severely criticized—and rightly so—by any stockholder. Particularly would this be true if the report were a study of a contemplated new area of business for that company. I think the Members of this House are in that same position.

Mr. Chairman, opposing any program which, in the eyes of its proponents, is designed to assist in alleviating a public problem is never easy. However, I ask my colleagues to oppose this bill, first, because mass transit is not a national issue but is one that is where the real problem is limited to certain highly urbanized areas; second, because these highly urbanized areas are able, through their own resources, to finance their own solution cheaper than can the hard-pressed Federal Government; third, because this bill is more than a mass transit bill—it is a bill which, in effect, creates the Administrator of HHFA as the czar or Federal mayor of every main street in this country, not just on matters of brick and mortar, but indirectly on matters involving sociological relationships and living conditions. If we want a Federal mass transit bill, let us pattern it after the highway bill not the housing bill and put it under the Under Secretary of Commerce for Transportation where it belongs; and, fourth, because the scope and the size of this problem is presently unknown—but will be known, as a result of the expenditure of millions of dollars when the local transportation plans now underway are completed. I strongly urge the defeat of this bill because it is badly conceived and badly timed.

Mr. PATMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I rise in support of H.R. 3881 which was reported overwhelmingly by my committee and which has been passed by the other body.

PROGRESS SINCE THE HORSE AND BUGGY DAYS

All of us in this Chamber, from radical reactionaries to prudent progressives, take pride in pointing to the progress that has been made in America.

From the horse and buggy days of less than 100 years ago, we have progressed to the point where we can transport man in space.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. What is a "radical reactionary"?

Mr. MOORHEAD. That is a good term I see in the newspapers nowadays.

Mr. GROSS. I see.

Mr. MOORHEAD. But how much progress have we really made since the horse and buggy days?

During most of the day it takes a motorist sitting behind a 300-horsepower engine longer to cross Manhattan in midtown than it took a horse and wagon 100 years ago.

The trip from Newark Airport to the center of Manhattan Island, a distance of 13.4 miles can be made by public transportation in the rush hour in 1 hour and 30 minutes—longer than it took for Colonel Glenn to complete a single orbit of the earth. One hundred years ago a horse and buggy could travel the same distance as the Newark Airport trip in 1 hour and 17 minutes—13 minutes quicker than it can be done today. Is this what we call progress?

POPULAR SUPPORT FOR H.R. 3881

I think that people are beginning to become aware of the problem and to agree that something must be done about it.

On Monday of this week I received nine letters favoring the bill now before us. One letter urged my support "for the good of our area and the city" because "the kind of transportation we have now is so poor." Another handwritten letter said:

> In these days of congested traffic and lack of parking facilities in urban areas in large as well as in small towns we are being taxed to find parking spaces for our patrons.

Another wrote unselfishly:

> I feel that the enactment of this legislation will enable my friends and neighbors and even myself to have transportation, something we have very little of at the present time.

Mr. Chairman, the people are aware because traffic congestion and the lack of good mass transit are not occasional problems but on the contrary are daily irritants.

Morning and evening five times a week, trolley, bus and subway riders and railroad commuters are subjected to the irritations of inadequate transit. Today the motorists, bumper to bumper on the expressways, are beginning to realize that the nerve-wracking irritations of traffic jams are caused by lack of adequate transit.

H.R. 3881 WILL REDUCE THE TAXPAYERS' BURDEN

The final ironic irritation is that we are being taxed at many times the rates to create these irritations than we would be if we were to provide for adequate public transit. Without mass transportation it is obvious that our very expensive highway program must be increased many, many times.

What are the comparative costs of highways and mass transit? It is generally agreed that 1 lane of rapid transit can carry as many people in one direction as 21 lanes of expressways. In Atlanta, Ga., it was estimated that a mile of rapid transit could be built at a cost of $3.5 million per mile, whereas the cost of expressways with approximately the same capacity for moving people would cost about $42 million per mile. On this basis, expressways cost the taxpayers 12 times as much as rapid transit. A few years ago the Christian Science Monitor computed the cost to each taxpayer from 9 to 17 times as much to pay for a fine rapid transit system to move the same number of people. A recent article in the Washington Post gave the ratio as 16 to 1.

Added to this staggering expense is the tremendous loss to the cities which results when taxable land is eaten up by expressways and downtown garages. Sixty-eight percent of the downtown Los Angeles land area is already consumed for street and parking use. The mayor of Cleveland has said that a 3½-mile freeway which cost $75 million took $30 million worth of property off the city tax rolls. Because mass transit does not require large land areas, the potential saving to the Federal and local taxpayer from encouraging mass transit is tremendous.

Because of the Federal highway program, it seems to me that the Federal Government has a legitimate dollars and cents interest in solving the problems of mass transit.

THE GREAT SOCIETY NEEDS HEALTHY CITIES

Less than 1 month before his death President Kennedy expressed his hopes for America when he said:

> I look forward to an America which will not be afraid of grace and beauty, which will protect the beauty of our natural environment * * * which will build handsome and balanced cities for our future.

One month ago President Lyndon B. Johnson expressed his hopes for America in terms of "the great society." He said that the three places where we should begin to build the great society were in the cities, in the countryside, and in our classrooms. Discussing cities first the President said:

> It is harder and harder to live the good life in American cities today. * * * There is not enough housing for our people or transportation for our traffic. * * * Our society will never be great until our cities are great. * * * It will be the task of your generation to make the American city a place where future generations will come, not only to live but to live the good life.

The basic question raised by this bill is simply shall we continue to have cities in the United States of America? This is the basic question which we face. Without rapid transit, cities, as we know them, simply cannot grow and flourish. Wilfrid Owen, of the Brookings Institution, once said, "We cannot be both urbanized and motorized."

It may be that the automobile will win out in the struggle with man and that the future of America lies in a total dispersion of people into small towns across the country. If that is the future, then, instead of talking about rapid transit we should be making plans for the orderly decline of our cities and the destruction of our countryside.

However, I do believe that this idea is not only shocking, but unrealistic. I believe that our cities must continue to

serve their function of being the economic and cultural centers of our Nation. Throughout history cities have served this function. Civilizations are almost always city based. From Babylon, Athens, and Rome of the ancient world to Venice and Florence of the Renaissance to Paris, London, and New York of the modern world, cities have been the focus of civilizations. The reasons are obvious. It takes a large concentration of people to support art galleries, symphony orchestras, the opera, and the theater.

There are economic reasons, too. In our complex economy a particular business transaction may well require the bringing together of businessmen, bankers, investment bankers, lawyers, accountants, engineers, and persons of other specialties. Only in a city can such a group be readily and conveniently brought together. America needs and will continue to need its great cities.

Without rapid transit the cities will not be able to carry out their function of facilitating the exchange of goods and ideas and the entire Nation will be the poorer both economically and spiritually.

Mr. RAINS. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey [Mr. MINISH].

Mr. MINISH. Mr. Chairman, I cannot emphasize too strongly that the legislation we are here debating is urgently needed.

Every day that passes without the relief proposed by this bill adds to the seriousness of a situation for which Federal assistance is long overdue.

Though the need for modern, economical urban rapid transit grows daily more acute, existing transit systems are deteriorating.

Mr. George W. Anderson, executive vice president of the American Transit Association, told the House Committee on Banking and Currency that 437 mass transportation operations had been sold or abandoned since 1954. I am informed that currently this figure is approaching 500 sales or abandonments in practically every State in this Nation. Other systems now facing failure can be saved only if we act now on this legislation.

Another alarming fact, disclosed by Mr. Anderson, is that some 60 cities with populations between 25,000 and 50,000 today have no public transportation service at all. One wonders what the people without automobiles do for transportation in these communities. Certainly, these facts lead to agreement with Mr. Anderson's statement that "there is urgent need for the type of relief which H.R. 3881 would provide." The chairman of the Pennsylvania Railroad Co., Mr. James M. Symes, emphasized this in testimony he presented.

Mr. Symes said:

> It is cheaper and more economical for the public to pay the cost of contracting for suburban rail services than to permit these essential services to perish.

The mayor of Detroit, who represented the American Municipal Association in the public hearings on this legislation last year, declared that emergency help is needed for urban mass transportation.

I can vouch for that statement so far as the metropolitan area of northern New Jersey, part of which I have the honor to represent, is concerned. This area is booming with more people, more industry, and definitely more traffic. Despite truly monumental development in highways, the demand for moving people and goods is outstripping the capacity of the new facilities. The New Jersey Turnpike, the Garden State Parkway, the New York Thruway, the second deck on the George Washington Bridge, the three tubes of the Lincoln Tunnel, the two tubes of the Holland Tunnel, as well as many subordinate highways, are jammed at peak hours, and the situation is getting worse every day. The only feasible answer to New Jersey's traffic problems is to raise the standards of public transportation so that people will be attracted to its use.

For the past several years New Jersey has been purchasing improved service on commuter lines in the area. This has been an important stopgap measure, but we need much more and better facilities and equipment. They cannot be provided without Federal financial assistance, as in H.R. 3881.

Now, Mr. Chairman, what happens if a rapid transit service goes out of business?

An answer was given in the testimony of Mr. W. P. Coliton, of Michigan City, Ind., whose company transports from the outlying area thousands of workers who man Chicago's industrial and commercial establishments.

Mr. Coliton said:

> If I go out of the passenger business, I am going to have to dump 11,000 commuters onto the existing highways.

Highways are already crowded, he commented, and probably a new one would ultimately have to be built to accommodate the additional traffic. The cost, Mr. Coliton pointed out, would be greater than the cost of keeping the existing rapid transit facilities in operation.

Other types of public transportation facilities are also in jeopardy of being lost to the people who depend upon them for travel to work. Rail facilities are deeply in trouble, and the record indicates that the fault is largely not their own. Federal aid has provided fast highways and subsidies to airlines that have siphoned off their most lucrative passenger traffic. Income from the short-haul commuters alone is insufficient to meet costs. While freight revenues may be used to offset passenger losses for a time, abandonment of much commuter rail service is inevitable unless aid is made available.

Without doubt, aid to existing transit facilities will be far less costly than provision of alternatives, whether highway or other.

The city of Newark, part of which lies in my district, is a good example of another reason why passage of H.R. 3881 is so greatly needed. The Newark area presents three problems in one: First, providing local transportation coordinated with the rail commuter lines; second, improved commuter service between Newark and New York City; and, third, improved commuter service from the south and west into Newark with some through service to New York.

The magnitude of the Newark situation is indicated by the fact that there is an increase of 125 percent in the city's daytime inhabitants over the night population. The transportation of this vast number of people into and out of Newark each working day poses problems of staggering proportions to all concerned. Almost daily I receive pleas for action of some kind from harried constituents who are exhausted from the daily struggle to get to and from their home and place of business.

Obviously the solution to these problems must be on an areawide—in fact to some extent on a regional basis—with the local program closely coordinated with that of neighboring cities and suburbs. The assistance proposed in H.R. 3881 is designed to give support and incentive toward exactly that type of local effort.

Mr. Chairman, New Jersey will go on record as solidly in favor of the bill.

Mr. RAINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut [Mr. MONAGAN].

Mr. MONAGAN. Mr. Chairman, I support H.R. 3881.

The public transportation system in our country and particularly in the State of Connecticut is a shambles. Between competition from highways and other methods of transportation and short-sighted management, our public systems have gradually fallen into disrepair and disrepute.

Even though the automobile is so widely used and the truck has advanced appreciably as a means of carrying freight, nevertheless, the train or bus remains the sole practical mode of transport for millions of people within this country.

No one believes, I am sure, that we should permit these systems to go down the drain. The differences of opinion relate to the methods of achieving the objective of preserving these vital systems and maintaining them in reasonably good condition.

It is indeed a sad commentary that the great United States with its affluent society, its high standard of living, its fine automobiles, and its luxurious airliners should find its subways far inferior to those in Moscow, and its trains a poor second to those in Japan.

Surely our transportation systems need all the help that they can get, whether it be in the form of financial assistance or in the field of ideas and procedures. The current bill seeks to provide funds for the purposes I have mentioned.

In my own State, the need for help is particularly acute. This is true within our cities and also in the vicinity of the New York metropolitan area of which part of our State is an adjunct.

I believe that this bill represents a reasonable start on a persistent and worsening national problem. Its scope lifts it above the purely regional or local stage. Perhaps the legislation is not perfect and the program will require

some time to eliminate the bugs. Nevertheless, the need is urgent, and now is the time to begin.

My own support of this legislation is buttressed by that of Governor Dempsey, the chief executive of Connecticut, who has long been concerned with the future of mass transportation in New England, and Richard J. Smith and the other trustees of the New York, New Haven & Hartford Railroad who have the duty of managing that rail line. They strongly support H.R. 3881.

If this bill passes it is my hope that it may, supplemented by State, private, and local interests and capital, provide the beginning of a new era in public mass transportation in the United States.

Mr. WIDNALL. Mr. Chairman, I yield 15 minutes to the gentleman from Ohio [Mr. TAFT].

Mr. TAFT. Mr. Chairman, I take this time to discuss in general debate some of the provisions that seem likely to come up in the discussion on the amendments when we reach the point of reading the bill. I feel that the time allowed on the amendments themselves may be inadequate. These questions which I shall raise go a good deal further than any minor change in the bill, but rather to some very basic questions with regard to it.

Mr. Chairman, the first of these areas is with regard to the charges that have been made and then denied, that this bill will in effect make the HHFA Administrator the so-called mayor of Main Street who can, in any way that he wishes, in any areas that take on the assistance that is said to be provided by this program determine what is to happen in the entire transportation planning of the cities and villages involved.

Mr. Chairman, I do not believe that anyone has pointed out the fact that we are getting down to areas so small in size under this bill as it is drawn that they would qualify only as villages. At least, in my own State the minimum limitation is some 2,500 people, the ordinary definition of urban areas, which is the definition in the bill. In Ohio, at least, if you do not have 5,000 people you cannot qualify as a city. So, we are talking about villages. The HHFA Administrator has, I think, the final say in this connection as to what is the test. As a result of this I offered an amendment in the committee when the measure was being considered and after some protestations that there was no intention or attempt under this bill to give this broad power over the conduct of transit facilities in any assisted community to the Administrator. I suggested, for instance, if there was no fear of this that perhaps an amendment would be in order. I offered an amendment which would come in the bill on page 24 at the end of section 9, adding another subsection therein at that point which would have read:

(e) No provisions of this Act shall be construed to authorize the Administrator to regulate in any manner the mode of operation of any mass transit system or the rates, fares, tolls, rentals, or other charges fixed or prescribed by any local public or private transit agency.

I believe the committee would be interested to know that that amendment failed by a tie vote. It is true that some Members of the majority party even voted for that amendment, going along with their apparent conviction that these powers were contained therein and I say that they are. Under this bill, the powers as they would be interpreted I believe by any court, the HHFA Administrator would in many areas that would receive this help have the authority and the power to regulate rates and to stipulate conditions for the operation of the entire transit system.

Mr. Chairman, I believe for the purposes of making clear the record on this question today, I would like to ask the gentleman from Alabama [Mr. RAINS], the chairman of the Subcommittee on Housing, if he would respond for the purpose of expressing his opinion on the question of whether the HHFA Administrator would have these powers under the bill?

Mr. RAINS. I will say to the distinguished gentleman from Ohio that in my honest opinion that is a figment of somebody's imagination. The answer is "No." I do not think he would have that power whatever. There is nothing in the bill which says he would. That is imaginary, in my opinion. And, I would like for the RECORD to show that I for one not only think he would not have it but I would not want him to have it.

Mr. TAFT. I would like to ask the gentleman if he sees anything in the bill in the case of any grant to such qualifying community which gives this power to regulate rates and stipulate conditions for the operation of a local transit system?

Mr. RAINS. I do not think the Administrator would have the authority to write into any contract such requirements which are not contemplated by the bill at all.

Mr. TAFT. I would ask the gentleman if, on the reading of the bill for amendment, I should offer an amendment along the lines of the amendment offered in the committee, could I then be justified in expecting his support of such an amendment?

Mr. RAINS. I would oppose the amendment because it would be superfluous, in my judgment. I would not want to put in any preachment in there when he has not the power. That might infer he has that power, and I would oppose the amendment because I do not think it is justified.

Mr. TAFT. I will discuss the matter with the gentleman later.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. TAFT. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I think the amendment should be defeated for an additional reason. When any unit or private enterprise applies for a loan or grant under the legislation, it seems to me that program has to be presented to the agency to see whether or not these moneys, if applied for in a grant or loan, would help the transportation system. Certainly when investigating and considering an application for a loan or grant, there will be contained in the application projected figures which would include the fare rate and the amount of traffic expected and the type of route traveled, and so forth. I think that might get us into trouble if we were to put in the gentleman's amendment as it was offered in committee.

Mr. TAFT. I do not think it would. And I think that emphasizes the point I was making, which is the economic feasibility of the plan proposed. Under "the project cost" determination he might raise the fares. This is a right he is given under the bill.

Mr. RAINS. Mr. Chairman, will the gentleman yield?

Mr. TAFT. I yield to the gentleman from Alabama.

Mr. RAINS. If an amendment is offered, does the gentleman mean to make it plain and simple that he shall have no authority to regulate fares and rates, or does the gentleman expect to put other requirements in it?

Mr. TAFT. No. My amendment offered in committee, and the amendment I would propose to offer, would cover that. I think the language in the committee did include "regulated in any way," or the mode of operation of the system, which seems to be the rate-setting power. The rate-setting power might be determined.

Mr. RAINS. Would the gentleman be content with an amendment which would state that the Administrator had no authority to regulate rates?

Mr. TAFT. I will offer such amendment separately if I can get the gentleman's support, and it sounds as though I might.

I would like to go on further at this time and discuss in some little detail the provisions involved in the so-called proposed labor amendment. We do not know, of course, what those provisions will say until the amendment is offered; however, I think certain things might be noted as to the form in which it is to be presented.

I call your attention to section 10(c) of the bill which states "It shall be a condition of the granting of any assistance under this act that fair and equitable arrangements are made."

Under the bill as it presently reads those arrangements are to be approved by the Administrator. The Administrator acts only after consideration, consultation, and concurrence of the Secretary of Labor. I understand the proposed amendment will take the Administrator out of the proceeding and turn over the arrangement to the Department of Labor.

What the purpose of this is hard to say. The interest of the Administrator representing all cities makes him the dominant factor in arriving at a fair and equitable arrangement.

Mr. RAINS. Mr. Chairman, would the gentleman yield?

Mr. TAFT. I yield to the gentleman from Alabama.

Mr. RAINS. The gentleman complained a moment ago about the Administrator having too much power. Now he turns around and complains because he has not enough power.

Mr. TAFT. I think this depends on what area is involved. I think it is better to have two people involved instead of just the one, particularly one concerned with all sides of the economic arrangements that may be arrived at, whereas in the case of the Department of Labor I do not think that could always be assumed to be true.

Mr. RAINS. The gentleman will agree, I am sure, that if it is a labor matter it would be better to be handled by the Labor Department than some other department?

Mr. TAFT. I think the Secretary of Labor should be consulted as is presently provided in the bill if such arrangements are to be worked out. However, I do not think he is to be the sole judge. That is apparently the intention of what the amendment as it is proposed will be.

Mr. RAINS. Not necessarily. I think the gentleman is imagining again. I do not know that that will be true. But the gentleman will agree that a labor problem under our setup is better to be considered by the Labor Department than the Housing Administrator or Secretary of State.

Mr. TAFT. Where it involved the operation of the system I think it important that the person who is in charge of the administration of the system itself, the Administrator of the HHFA in this case, be a factor in concluding such arrangements. Otherwise, it would give the Secretary of Labor the power to veto and dominate the entire situation.

Mr. RAINS. I do not think the gentleman need have any fear along that line.

Mr. TAFT. Moving on to other provisions I understand are to be added in connection with these arrangements, it is stated that these arrangements shall include—this is presently in the bill; this is compulsory, not voluntary—these arrangements shall include certain provisions. The first of these provisions is the preservation of rights, privileges, and benefits under existing collective bargaining agreements. I do not think many of us would argue with this concept of continuing collective bargaining if there is collective bargaining, if they are to be changed or added to under this act. However, in the Senate bill, and I understand in the amendment to be offered, there are included the words "or otherwise." What the meaning of these words would be would be impossible to tell. Presumably they might start out by referring to one of the practices not guaranteed, or benefits not guaranteed, not given, except at irregular intervals, perhaps Christmas bonuses, something not covered by collective bargaining agreements. But if we incorporate this in the bill, it will be compulsory on the Administrator or the Secretary of Labor, whichever it turns out to be, or both, to go ahead and put in some kind of new rules, taking out all these informal benefits that might exist and perpetuate them in this kind of system.

With regard to this section I think it might be interesting to turn to the Senate debate on the amendment on this point. It was stated that the amendment was being opposed because nobody knows what the amendment will do. It continued:

> I know that my good friend from Oregon, who is one of the best lawyers who has ever served in this body, did not write this amendment. I am sure that if he had had an opportunity to consider it at great length his trained legal mind would have made many changes in it.

There he was referring to the "otherwise" provision.

At another point, the conclusion of an arrangement about the continuation of collective bargaining rights, with regard to the continuance of collective bargaining rights as they exist, I do not think many of us would have much to argue about that in this case, but if there is a change of ownership of a system under private ownership to public ownership, we may very well under these circumstances be running into a prohibition on certain transit operations in which there is a prohibition against any public ownership getting any benefits under this bill, because under the law in that locality they would not have such bargaining rights. Under the law this was prohibited, and this was contained in a similar Senate amendment, as to which the sponsor of the amendment stated:

> I want to be very frank as I say this today: In rare cases in which local law prohibits collective bargaining, Federal money would not be available, because it would be in conflict with the policy of the bill.

I would suggest to the Members that they check on the laws of their particular cities and their particular States to see whether or not this will be the case because they may very well find that the provisions of this bill and the provisions of this amendment will simply rule you out of any possible consideration in connection with the help that might come under this bill if, indeed, it is passed.

Mr. PATMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Rhode Island [Mr. ST GERMAIN].

Mr. ST GERMAIN. Mr. Chairman, the point I think is very important here is whether or not there is a real necessity for the legislation and I would like to come before you now and give the specifics that we are encountering now in my State.

Mr. Chairman, in my State, which we are proud to call Rhode Island and Providence Plantations because of its early rural character, we are today faced with a crisis in the provision of public transportation to serve the needs of an urban concentration of population approaching a million people. Our principal transit system, privately owned and operated, is being forced to pare its service to maintain a profitable operation, though it has one of the highest fares in the country. Total abandonment of this private service is a distinct possibility which our legislature has already recognized through the establishment of a Rhode Island Public Transit Authority. Let me discuss the background for this situation and why enactment of H.R. 3881 is important to us—as it is to many other urban areas.

The 1960 census focused national attention on the fact that urban America now embraces 70 percent of our population. Even more significant is the fact that three-fourths of this urban population, now about 100 million people, live in 213 metropolitan areas constituting less than 1 percent of the total area of the country. By 1980, less than 16 years hence, 80 percent of the population will be living under urban conditions.

I come from southern New England where urbanization is even greater. As early as 1840, Rhode Island became the first State to have its urban population outnumber the rural population. Today the Rhode Island population is classed as 86.4 percent urban, Connecticut's is 78.3 percent and that of Massachusetts is 83.6 percent. In fact, in these States, and there are many others in which the same conditions prevail, corridors of contiguous urbanized development extend across the entire State. The two metropolitan areas in Rhode Island both extend across the State line into Massachusetts.

Many factors have supported and encouraged this tremendous urban growth. Perhaps the greatest common denominator has been the ability of people to travel throughout these spreading metropolitan communities by different modes of transport according to individual means and needs. These have changed radically from the early streetcar and suburban electric railway lines to the bus and rapid transit systems of today, augmented in very large measure by the private automobile. In becoming the major means of personal transportation, the automobile has required a tremendous investment in streets and highways—especially freeways. Of note is the fact that half of the more than $40 billion being spent on the National System of Interstate Highways is being spent in urban areas.

In Rhode Island we have concluded that public transit service must be planned and supported on a statewide basis and as a public responsibility in the public interest. This is essential to a sound urban economy and to a desirable distribution of industry, business, and the maintenance of healthy home environments. As a basis for wise decisions and the exercise of effective public authority, there is underway a statewide land-use transportation planning program which will develop needs and definite plans for highway development and mass transportation. Connecticut, I understand, is doing likewise.

The newly created Rhode Island Public Transit Authority is already taking the first steps to meet the crisis brought about by the deteriorating privately owned and operated transit service. After a legislative finding that public passenger transportation was essential to the continued economic development and growth of Rhode Island and that the public interest might best be served by a public transportation system, the authority was given the power, under appropriate conditions, to prepare plans for continued operation and acquisition of mass transportation service.

Already the authority has proposed to employ a transportation consultant to make a study of the public necessity for transit service and the appropriate means for providing it under the Transit

Authority Act. I am given to understand this afternoon that much of this work has been completed. The consultant is to determine the financial requirements, available sources of revenues from fares and otherwise, and the form of ownership and management needed to satisfy the public interest.

H.R. 3881 will do for public transportation what the Federal Government has been doing to aid the States, cities, and suburbs in development of a highway system for the mass movement of people by private automobile, particularly in growing metropolitan areas. No such Federal aid has been provided for the contemporary modernization and extension of public transit systems. The bill would help to overcome this lag or imbalance in the development of public transportation. Many of the strongest advocates of the highway program now recognize that multimillion dollar highways and freeways cannot endlessly provide for urban transportation needs. In fact many have calculated that wise expenditures for the improvement of public transportation will save many times the public expense that would be necessary to provide the same capacity over additional highway lanes.

The urban transportation bill has been designed to meet the needs that I have outlined. It is adaptable for both small and large communities and applicable to both public and privately owned transit systems. The benefits of this legislation would be available throughout urban America wherever there is need for financial assistance.

I wish to join the previous speakers on behalf of this bill and urge its enactment for the purpose of meeting the needs we face and the crisis which we shall face in the near future.

Mr. PATMAN. Mr. Chairman, I yield 10 minutes to the gentleman from Georgia [Mr. WELTNER].

Mr. WELTNER. Mr. Chairman, what I hope to do is to lay out some figures, and to review some historical facts. I believe we can establish, right here, that mass transportation is not a convenience but a necessity; not a desirable urban program, but an absolute urban imperative.

Let us look at some of the great cities of the world—Paris, London, New York, Tokyo, Moscow, Boston, Chicago. No one will tell you, "In New York, all we need is a few more lanes of expressways." Hardly. Each of these cities has long had a highly developed system for mass transportation—and those systems are vital to their very existence.

Automobiles, despite their convenience and independence of movement, have created a host of problems. Only last year, for instance, did the Congress pass the Clean Air Act, designed to meet, among other problems, air pollution from automobile exhausts. The great cities of our Nation and of the world could hardly survive with automobile traffic alone. They function as centers of activity—commercial, financial, cultural, governmental—because their systems are capable of moving great numbers of people in and out, back and forth, to and fro. Without that ability, they would rapidly deteriorate.

Let me review quickly the beginnings of some of the world's most famous transit systems—the Metro, the Tube, the Underground, the subway, the MTA.

The Metro was begun in 1900 when Paris had a population of 2,700,000. The Tube was opened in London in 1863 when that city had a population of 2,363,000. The subway in Moscow, was constructed in 1934 when the population of Moscow was 3,600,000. Boston opened the MTA in 1897 when its population was 561,000. The Chicago and New York subways were built in 1943 and 1904 respectively, when those cities had populations of 3,390,000 and 3,400,000.

Subways and elevated trains are not new. They began in another era—the railroad age. Then came the automobile, which has proliferated beyond all imagination. Yet the need for these mass systems, predating the automobile, is ever greater—because of the automobile.

The fact to be recognized here is that these cities began their rapid transit systems when they were the same size as a number of American cities will be by 1975, the leadtime required to build new systems.

In 1975, Minneapolis-St. Paul will have 2,100,000 people; Denver, 1,500,000; Atlanta, 1,470,000; St. Louis, 3 million. The Nation's Capital, Washington, D.C., will have more than 3,500,000 people in its metropolitan area.

The point of the population figures is this: The early systems were built at the same population stage as those of the emerging cities of the United States.

The fact is, we cannot maintain a growing city whose only mode of transportation is the expressway.

Many critics of mass transportation are blind to these facts.

They will tell you that the concept of mass transportation is outmoded. They will cite reams of figures on declining passenger usage, financially failing public and private transit systems. Yet these arguments ignore some very simple statistics, some very simple facts. We have tried highways as a sole solution, and it has failed.

In cities of more than 1 million population in the United States, more than 75 percent of the people travel to and from work by some form of mass transit. A transit strike in New York, such as the one in 1957, is a major catastrophe.

Some critics are more charitable. They will accept the argument that the systems we presently have are needed. But they immediately contend that we need no new systems. They say that people will not leave their cars and ride a new system. Yet, history proves them wrong.

Cleveland, a city of 936,000 at the time, built a new subway system which opened in 1955. The passenger load for the first full year of operation was 14.7 million trips. By 1960, the passenger trip figure had risen to 18.3 million. Automobiles were left at home: The fare box offers irrefutable proof.

Let us now turn again to the emerging new cities of America. Atlanta is one of these. They are the regional capitals, with populations between 1 and 2 million. They have grown by serving as the financial, educational, transportation, warehousing, manufacturing, and communications centers for geographic regions of our country. Among them are Atlanta, Dallas-Fort Worth, Denver, Kansas City, St. Louis, Minneapolis-St. Paul.

They are vital cities, growing cities, serving as the center for the countryside and smaller cities around them.

They have all the problems of growing cities—the need for more schools, sewers, parks, the problem of air pollution, water pollution, and urban blight.

But one problem common to all is transportation. All have central cities and central business districts.

None of them have adequate mass transit systems. All are expressway cities, and all, in varying degrees—face serious problems.

Mr. Glenn Bennett, executive director of the Atlanta Region Metropolitan Planning Commission, testified before the committee last year when hearings were held on this bill. He presented a graphic statistical picture of the traffic situation in Atlanta:

> Like other areas, our growth in population has been exceeded by increases in the number of motor vehicles. While the population was growing at 40 percent, rubber-tired vehicles increased at about 75 percent. We see this trend continuing.
>
> As early as 1958 our planning studies revealed major problems in connection with access to central Atlanta, particularly in rush hours. The small area known as central Atlanta provides more than 20 percent of the tax digest, more than 25 percent of the city's employment, and 20 percent of the employment in the five-county area. Streets and expressways were discovered to be operating at considerably more than practical capacities even then, in 1958. Programed capital improvements are still not destined to bring the capacity up to the rising demand, much less keep it there.

Atlanta has been building an expressway system since 1946, when it was a city of 560,000. Today the metropolitan area has more than 1,100,000 people. We're still building, and the traffic situation worsens daily. By 1970, automobile traffic would require 36 expressway lanes north and south, and 22 east and west. Already more than one-half of our central city is devoted to streets and parking lots.

The absurdity of having only street transportation in Atlanta is obvious just by stating the requirement, 58 expressway lanes by 1970, where we only have built 14 in the last 18 years.

Regional cities are growing at an average of 50 percent each decade. Last year, Atlanta grew by 34,000 people. By 1980, it will be a city close to 2 million people.

The facts are obvious. Great cities absolutely require multiple-transportation systems. But the regional capitals of the United States are moving toward metropolitan status with only expressways.

If we are to have mass transit systems to meet demands, we must begin now. To postpone mass transit systems is to consign regional cities to the awful and expensive fate of piecing their towns back together in the future.

A very modest beginning toward the development of systems for the regional capitals—and for my home—Atlanta—is embodied in H.R. 3881, the Urban Mass Transportation Act of 1963.

I say "modest," for this bill provides only $500 million in macthing funds for the development of systems.

The projected Atlanta system, alone, would cost approximately $300 million. But H.R. 3881 would allow us to begin. And it would allow other cities like Atlanta to begin to develop alternatives to expressways, traffic jams, parking lots, and carbon monoxide.

Mr. Chairman, we must act before all American cities become vast wastelands of concrete and stalled cars.

I urge support of this bill, not because it is helpful, or progressive, or forward looking—but because it is a historic imperative.

Mr. WIDNALL. Mr. Chairman, I yield such time as he may desire to the gentleman from New York [Mr. LINDSAY].

Mr. LINDSAY. Mr. Chairman, I rise in support of this bill.

Mr. Chairman, I rise in support of H.R. 3881, an important bill that will provide Federal loans and partial grants on a matching basis to States and localities in order to assist and encourage the development of urban mass transportation systems. The problem of urban and suburban transportation has reached crisis proportions. The time has come for Congress to recognize the fact that we live in an urban society with overlapping interstate transportation problems within and between huge urban complexes. The Federal Government always must concern itself with problems national in scope and beyond the capacities of localities to cope with alone. Certainly if the Nation's highway structure can be considered a Federal responsibility, the transportation problems of urban complexes are even more so.

The modern history of the American city is the history of its steady deterioration. The central city is being strangled by traffic congestion, choked by automobile fumes, darkened and depressed by overhead expressways; the peripheral areas are being blighted by "sprawl," and the suburbs are attracting the groups that formerly gave the city its essential tax base. In recent years farsighted planners have agreed that many new things must be done to revitalize our cities; they have agreed that a contributing factor to the decline of cities has been their chaotic transportation system. Paradoxically, another contributing factor has been the enormous assistance and encouragement the Federal Government has given to highway construction for automobiles and trucks. We have not yet covered all of the country with concrete but we are coming close.

Of course, Mr. Chairman, a sensible system of urban mass transportation will not transform the city into a paradise; nor will it necessarily relieve all traffic congestion. But it will establish a precondition for what, during the next two decades, will have to be a crash program to humanize the American city.

By 1980 the total population of the United States is expected to reach 250 million, of which at least 75 percent will be living in urban areas. Further, this population will be concentrated in about 40 great urban complexes, each with a population of more than 1 million. There is no question that present transportation facilities will be totally inadequate to accommodate these huge urban and suburban areas. It is unmistakably clear that existing systems of streets, highways, buslines, and rail transit, inadequate as they are today, will not alone be able to handle this rapid population growth in the future, much less today. Trying to catch up with the present is almost a big enough problem. New techniques of mass transportation, while not a panacea, will bring into balance modes of transportation that have gone all out of balance.

A transportation system must be viewed in terms of the impact it makes on the total urban area and, most importantly, on people; it must be viewed as bound up with the quality and character of the entire community. At a time when population buildups are occurring on the fringes of big cities, a program of modern urban mass transportation could provide a sensible link between the suburbs and the central city, offsetting the great pressure to choke and entangle both with expressways. A byproduct of suburban sprawl has been the shifting of traffic congestion during the morning hours to the suburban areas. The result is that in some areas getting to the city is less a problem than getting out of the suburbs. Thus, people dependent solely on private automobiles find themselves isolated in the suburb. With a system of urban mass transportation, more people would have easier access to the commercial and cultural opportunities that can be found only in the central city.

Let us be clear that an urban mass transportation system will benefit not just the suburbs. It will be of enormous benefit to the central city. It will enhance the possibilities for central city development, promote livability in core areas of the city now strangled by traffic congestion, choked by gasoline fumes, and darkened by overhead expressways. Indeed, my own city of New York seems increasingly enveloped by a mantle of automotive smog, and the pressures to build more overhead expressways are enormous. The highway and automobile engineers seem to care little about the people who live in the city as they pour their wide ribbons of concrete, happily spurred on by large injections of 90 percent Federal money. The Lower Manhattan Expressway in New York City is one good example: an overhead monster that will make living close to intolerable in lower Manhattan and the lower part of Greenwich Village. It is time, Mr. Chairman, that consideration be given to the people who live in the city. Without them there is no city. The history of the decline and fall of cities has been the history of neglect of the people who live within them.

The problem of mass transportation cannot be dismissed, as it has been by some, as merely a local problem. The problem clearly has become national. The task of providing adequate mass transportation facilities overlaps neighboring political jurisdictions. Often the problem involves more than one State. It is a fact that about 53 of the country's roughly 200 metropolitan areas either border on or cross over State lines. Local areas will not, by themselves, be able to untangle these conflicting jurisdictions. Finally, to say that mass transportation is a local problem is to say that the Nation does not have a national stake in the economic vitality and health of our urban areas.

A further trouble is that State and local resources are close to exhaustion; they cannot alone develop the urgently needed transportation systems that must be developed if years of neglect are to be retrieved. The transportation companies themselves are caught in a dilemma. They are plagued by rising capital and operating costs and, due to the popularity of the automobile, declining patronage, yet if fares are raised and services curtailed, more customers are driven or drive away. At the same time the necessity of the role of mass transportation in the public interest cannot be denied. During peak hours about 90 percent of the travel to the central business areas in large cities is provided by mass transit systems. Private initiative lacks the resources needed to provide necessary services for commuters and rides during off-peak hours. So what is our choice? Do we go along this way and do nothing? Do we continue to let ourselves be choked to death by expressways? Or do we seek to provide a remedy?

During the next 10 years the 20 largest cities in the United States are expected to invest as much as $10 billion in mass transit facilities. To encourage greater investment in these and the many other cities throughout the Nation which will need mass transportation systems, this bill should be passed. H.R. 3881 is not a perfect bill; it makes no contribution to resolving the labor difficulties which have plagued the railroads in recent years. Yet this measure is a start; it recognizes that what is needed is a balanced urban transportation system which utilizes both highways and rapid transit. At a time when the country has been happy to continue a $41 billion Federal aid highway program, I do not believe that we cannot afford the modest expenditure suggested by this measure for mass, rapid, and modern transit. I strongly urge the passage of the bill.

Mr. WIDNALL. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. HALPERN].

Mr. HALPERN. Mr. Chairman, I rise in support of this legislation. I do so firmly convinced that it is the responsibility of the Federal Government to assist the metropolitan areas in developing comprehensive and coordinated mass transportation systems. The free flow of transportation knows no State boundaries and any strangulations thereof, not only affects the well-being of the individual but has a dire effect on our economy.

This principle, Mr. Chairman, was recognized in the program initiated under

the provisions of the Housing Act of 1961 and it is imperative that the program be continued and reinforced as provided for in H.R. 3881. This is good legislation and I am privileged to be a cosponsor of it.

H.R. 3881 will provide long-range Federal aid to help plan and develop the comprehensive and balanced urban transportation which is so vitally needed, not only to improve local transportation but to assure more effective use of Federal funds available for other urban development and renewal programs.

The fact that existing facilities cannot be maintained is proof that future requirements cannot be met without Federal assistance, particularly since State and city financial ability to meet the problems has been exhausted. Federal aid for mass transportation would follow the pattern of that to airports, urban renewal projects, and other services and facilities of national concern and benefit. Provisions of H.R. 3881 recognize that local participation is vital and that the Federal Government should not do the whole job.

Federal assistance funds, like those under the mass transportation grant program for experiment in transportation improvement, would make local funds which are available more productive and the national interest generated would stimulate additional local response and encourage action.

The mere fact that the mass transit systems are in metropolitan areas or cities does not mean that the problems are only local problems. Over the last two decades more and more people have moved into suburban areas so that central cities and their surrounding areas are becoming increasingly larger and more complex metropolitan areas.

Many people now live adjacent to regional employment centers, good schools, and recreational facilities easily reached by modern streets and highways. At the same time a number of problems are created, one of the most critical being that of maintaining transportation facilities to meet the wide range of needs in the urban complex. Transportation must be adequate throughout the entire metropolitan area, from one part to another, and between all parts and the central core area. Mass transportation service is essential to the economic health of urban centers; large numbers of people must be moved to and from work in a few hours. Approximately 86 percent of the 1½ million people who enter the central business district of Manhattan in the morning peak hours on an average day use mass transportation—subways, bus, railroad, and ferry. A similar situation exists in other major downtown areas.

The Architectural Forum, October 1963, published some relevant statistics which I quote here:

1. In the last decade, central cities' populations have risen only 10 percent, while suburban population has risen over 50 percent.

2. In the same period 12 of the 13 largest core cities showed absolute population declines, while the suburbs grew steadily.

3. By 1980, central cities will hold less than half of the population of the largest metropolitan areas.

4. Shifts in employment indicate that in another decade or so there will actually be more jobs in the suburbs than in the cities. New York City, which had 60 percent of its region's jobs in 1956, expects to have only 48 percent in 1985.

5. Urban populations are consuming more land as they spread out. In 1950, every square mile of suburban land contained 5,410 persons, but by 1960, the figure had declined to 3,759 persons per square mile, and it continues to decline.

The forecast is that within 20 years half of the Nation's population will be concentrated in 40 major urban cities, each with a population of over one million, and that 25 years hence 80 percent of the total population will be in the metropolitan areas. The urban complex finances, produces or arranges for production and marketing of most goods we use, for defense weapons, clothes, and so forth, in fact all except the growing of food. These essential functions can be performed only if people and goods can be moved quickly and easily within the urban complexes. Efficient transportation is a basic factor.

The New York-New Jersey-Connecticut transit district includes 10 percent of the people of the United States. People who live and work in this region pay 20 percent of the Nation's taxes. Several hundred national and international companies have home offices in New York. These companies consider accessability of their offices more than a purely local matter. Many functions of the central cities cannot be subdivided or duplicated in suburban shopping districts. It is in the national interest to see that these centers of manufacturing, finance, and trade—such as New York, Chicago, San Francisco, Pittsburgh, Boston, Philadelphia, St. Louis, Cleveland, Detroit, and Los Angeles—operate efficiently and effectively. Mass transportation is essential to assure these results.

Mass transportation must be maintained and rehabilitated where it exists, and planned for in areas where anticipated growth and population, and employment patterns make mass transportation essential. No business can survive with a large capital investment and operating force which are in use only 20 hours a week. Even with modern equipment, proper maintenance, and efficient operations, such a business loses money. The mass transit situation today is the result of years of deferred maintenance and neglect—cars built 50 years ago are still lurching over the lines.

Why do local and State governments permit such conditions? For one thing, their tax resources are not adequate or available to meet all the demands and funds are not available for all needs. Institutions for care of physically and mentally ill, education, recreation, and other facilities suffer from lack of financing. Mass transit has been at the end of the line although State and local governments have done what they can, for example in Philadelphia, Boston, and elsewhere.

Since World War II the revenue of mass transportation companies has fallen because of offpeak and weekend rider decreases. In the meantime capital and operating expenses have increased. Carriers have raised fares, trimmed service to a minimum and deferred maintenance with the result that more riders have been driven away and the downward spiral accelerated. Thus the ability of transit to provide good service during the work hours when it is needed most is impaired. Public funds are needed to fill the gap between transit needs and what the operators can afford to provide.

The basic problem is one of funds for necessary capital improvements. Passenger revenues are sufficient to meet operating expenses only. Major capital expenditures for basic system improvement and equipment are, in most instances abroad, provided by local and national governments directly or through assumption of responsibility for necessary debt service from general tax revenue.

The financial assistance proposed by H.R. 3881 is designed to help rehabilitate transit systems so they can serve the public. If service is sufficiently attractive more riders will patronize the service and farebox revenues will cover operating costs. To be effective, plans and programs for mass transit must be coordinated with land-use planning so that transit investment is coordinated with other major metropolitan area development.

Rail transit requires about 100,000 persons moving in and out of the central business district in rush hours to support its operations. There are only a few cities where population density makes this possible—New York, Philadelphia, and Boston already have rail rapid transit which was formerly more or less self-supporting, but which has suffered a decline in patronage in the past several years.

Congestion and inadequate urban transportation are a burden to the national economy. Loss of time, added fuel consumption, and so forth, because of traffic congestion adds to the cost of moving goods through metropolitan areas and hence to prices paid by the consumer for these goods. The mass transportation bill, H.R. 3881, should pass this House overwhelmingly so that a meaningful start may be made toward solving these critical mass transit problems.

Mr. PATMAN. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. VANIK].

Mr. VANIK. Mr. Chairman, I want to take this opportunity to support this legislation which I consider absolutely essential to the further growth and development of urban life in the United States.

To those who criticize the entry of the Federal Government into the problems of mass transit, I want to point out that the Federal Government has been vitally interested in mass transit for a long, long time.

The first interest of the Federal Government in mass transit occurred in the Federal Government's land grant program to develop a nationwide railroad system. Almost simultaneously, the

Federal Government commenced extensive participation in the development of waterways and harbor development—an expenditure which today runs into an astronomic dimension.

The Federal Government is deeply involved in airborne mass transit with an aggregate investment of $797,928,444 in airports and an annual expenditure of $600 million to monitor airborne traffic. In fiscal 1964, 80 million Federal dollars were spent to build and improve airports while $210,359,000 was spent to monitor air traffic for the expeditious movement of the new masses which rely on air travel. Between the period of 1954–64, Federal subsidies to air carriers for carrier operation have totaled $661,665,000.

The Federal Government's investment in the 886,678 miles of highways would total up to a staggering figure.

There can be little argument with these Federal activities in mass transit. There can be little valid argument with the extension of these benefits to the increasing numbers of citizens who live in urban areas and find themselves in a condition of increasing transportation paralysis.

There are those forces in the competing systems of individual transport which seek to suppress the development of a mass transportation system. This approach is short sighted. It is impossible to develop a system of individual motor vehicle transport broad enough to provide for all transportation needs. Individual motor transport is a luxury which our generation may be the last to enjoy. As a matter of fact, the future growth of individual automobile transport depends very considerably and perhaps chiefly upon the development of mass transit systems to syphon off great volumes of traffic which would otherwise contribute to the congestion and glut of our highway system.

My support of a mass transit system is not wedded to the use of a rail system. Motor buses on exclusive right-of-ways may provide more flexible and perhaps less expensive systems. Some sections of our country may be better served by a rail system while others may be better served by buses or a combination of both. The administrators of this program should be able to cooperate in the development of such a system as each metropolitan community should deem most suitable.

Today, the daily loss of man-hours in individual travel to and from the place of employment is beyond conjecture. Many workers fight vigorously for fringe benefits and 10-minute coffee breaks and exert their hardest daily work in negotiating transit from home to the place of employment. In this community, it is not unusual for citizens to spend 2 to 3 hours of the day in transit. In the trip to work, the workers consumes the fresh start time—the hours of maximum energy—to the difficult chore of getting to the job. The employer—whether it be a corporation, another individual, or the Government itself—gets the benefit of such skill or energy which may be left in the worker after he "has made it to the job." Sometimes all that is left for the job is a live, warm, exhausted body, in varying degrees of asphyxiation from highway monoxide. The compulsory human intake of poisonous air in daily highway congestion constitutes a major community health problem.

Today there are a total of 91 million motorists. The total number increases at the current rate of approximately 3 million per year.

We lose 50,000 motorists each year as traffic casualties. More significantly, we had a total last year of over 19 million highway accidents which involved over 20 percent of the total number of motorists. Therefore, the average motorist must expect an accident to occur statistically at least 20 percent of the time. Of the 91 million motorists on our highways, approximately 20 percent are physically, mentally, or emotionally unfit to drive. Their presence upon our highways at any given time has converted driving from a pleasure to a difficult, trying task. Our failure to develop an adequate mass transit system has contributed immeasurably to the annual highway toll of 50,000 deaths and 19 million accidents.

As a trial judge for 7 years before I came to Congress, it was my duty to review thousands of highway accidents. Today the legal controversies resulting from claims for personal injuries and property damage are glutting the courts of every community in the land. Traffic congestion and casualty have become court congestion, and there is no relief in sight.

Successful mass transit systems can reduce this toll of life and property and contribute to the comfort and convenience of future generations.

In my Cleveland community, the taxpayers of the city have a $45 million equity in a transportation system which has a value far in excess of its $58 million book value. It would be safe to calculate the present value of the system at well over $100 million. At the present time, the growth and expansion of this system is thwarted by limitations on capital expenditure for expansion. We urgently need help from a Federal mass transportation program to make our transportation system serve the total community and thus multiply its capacity to serve community needs. The $45 million investment of other local citizens of my community is indicative of the deep local interest in mass transit. This interest is worthy of Federal encouragement.

A few minutes ago, my distinguished colleague from Ohio, the Honorable OLIVER BOLTON, brought into discussion a question which I raised in committee concerning the feasibility of the creation of metropolitan mass transportation authority, to be created under the laws of the several States. I suggested that perhaps the extension of mass transportation systems might be made self-liquidating to a considerable extent if land in the immediate vicinity of system station stops or interchanges were acquired by such a transportation authority and then resold by the authority for planned use for high-rise residential purposes. This kind of a program would prevent land speculators from making windfall profits in the higher land values resulting from access to interchange or station stop. The benefits from increased land values at newly developed interchanges or station stops would flow back to the local transportation authority which created the increased values and to the commuting public which paid for the system. It is my hope that this idea will be carefully studied by those who seek to establish mass transportation systems. It will produce more mass transportation for less outlay and would preserve advantages within the integrity of the system.

Under this bill, there are many ways in which every large urban community can develop its mass transportation system. It can be developed through public or private ownership or a combination of both. It can be developed as a rail, monorail, or highway bus system, or a combination of each. Each community may devise a plan to suit its individual needs, the only obligation as far as Federal participation is concerned, is that the plan be workable and economically feasible. We must leave considerable discretion with those who administer the program. Continued Federal support will depend on the wisdom with which this act will be administered.

I believe it will be in safe hands and that a creditable record will be made in this necessary area of Federal participation.

In stimulating the development of urban mass transportation, we are making our cities more useful, we are increasing the productivity of urban workers and spreading the innumerable benefits of urban life far into the countryside.

Mr. WIDNALL. Mr. Chairman, I yield such time as he may desire to the gentleman from Illinois [Mr. MCCLORY].

Mr. MCCLORY. Mr. Chairman, the Congress is again faced with legislation calling for a subsidy of urban mass transportation. The bill we are considering today, H.R. 3881, proposes a $500 million Federal cash subsidy which would be available exclusively to municipally owned transportation systems and in which the State or local governments would be required to share up to 50 percent of the cost of many of the subsidized programs.

There is justifiable interest in my 12th Congressional District of Illinois for some program of assistance to urban mass transportation—especially in view of the recent abandonment of the North Shore Line and the financial problems faced by the various railroad systems serving Lake, McHenry, and Boone Counties. The suburban and commuter communities of Lake and McHenry Counties are particularly concerned by any reduction or elimination of service to and from Chicago. In addition, of course, the services of various buslines and the CTA are closely tied in with the welfare of our 12th District citizens.

But the big push for a federally financed program comes not from the people but from this administration as a political measure. I recognize, too, that there is support from the New York area where commuters residing in New Jersey,

Connecticut, and New York State suburbs are operating on a day-to-day basis assisted by a myriad of State and local programs which help keep the trains running. Other large cities, including Chicago, are also applying some pressures for a Federal program.

In the face of a Federal deficit estimated at from $10 to $15 billion, it can hardly be argued that the Federal Government can better afford such a program than can the States and municipalities involved. A federally financed program may be further challenged by the fact that San Francisco citizens recently voted a $792 million bond issue to be retired from local taxes in order to provide a comprehensive metropolitan transit system for the San Francisco Bay Area. As one can see, this is larger than the entire proposed Federal program which would be aimed at curing the transit problems in every metropolitan area in the Nation.

Consider also, if you will, that this measure would benefit not the privately owned commuter railroads in the 24 metropolitan areas of the Nation. According to its terms it would provide funds only to publicly owned mass transit facilities and would be available in every municipality of 2,500 or more. There are 6,000 such communities. This would seem to be a perfect tool for the Federal Government to take over direct control of a vital service of almost every municipality in the Nation.

Of course, the figure of $500 million in this Federal bill is completely unrealistic. It is reliably estimated that Federal expenditures would amount to $10 to $15 billion in the next few years—if this bill is enacted. Indeed, this proposed urban mass transportation program would dwarf any existing Federal subsidy program enacted so far, including the huge agricultural subsidy program which has plagued our Nation since its first modest enactment back in 1933 with an appropriation of $3 million and which amounted last year to approximately $5 billion.

No one can question the importance of our great metropolitan areas to the welfare of the Nation as a whole. Still, Members of Congress representing States such as Nebraska, Idaho, Nevada, and North Dakota may wonder why their taxpayers should be called upon to finance local transportation for those far-removed individuals residing in and about our great cities.

Is the failure or refusal of our State and local governments to provide legislation favoring mass transit facilities justification for tapping the Federal Treasury again? The interstate aspects of mass transit in the New York-New Jersey-Connecticut area are not reasons for the failure of the local and State Governments to provide interstate arrangements. Indeed, this has been accomplished significantly with respect to such complex subjects as ferry service, tunnels, and bridges constructed under the authority of the multi-State New York Port Authority.

Underlying this and other subjects involving new Federal spending programs is the effect of additional Federal obligations at a time when a reduction in taxes has been enacted in the hope of promoting a healthy domestic economy. This presents an inevitable dilemma in which the greatest possible public support is required to discourage the Congress from inaugurating new Federal spending programs while a serious attempt is being made to reduce the existing load on the overburdened taxpayer.

In my opinion, the Congress will be responding to the public will by rejecting this legislation. Unless a specific new source of Federal revenue to offset this enormous outlay can be found and unless other equities are presented, there appears to be no logical basis for me to support such a mass transit measure.

Mr. WIDNALL. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DEL CLAWSON].

Mr. DEL CLAWSON. Mr. Chairman, the foundation for the structure of strength and virility that is our urban society is centered in the American community. Long before the establishment of the Federal Government—during decades of expansion and colonization by European countries, each vying for power and position in the new world—our cities were emerging, building for the future, providing the many and varied services needed for an industrial community. The forming of such a society required the vision, wisdom, and hard work of men laboring together within the framework of a few ground rules wherein the freedom of the marketplace for both labor and goods was clearly established.

The controlled society, the oppression of centralized government and its attendant restrictions upon the individual exercise of conscience and decision had been left behind—our cities were unshackled, free to grow and develop, and, as they expanded, as industries, factories, businesses, and services multiplied, our cities constructed streets, sidewalks, sewers, water systems, parks, public libraries, recreation centers, utility systems, schools, colleges, churches, hospitals—they provided fire protection, police services, health facilities, sanitation safeguards, garbage pickup and disposal—they developed zoning patterns for the protection and separation of this complexity in living, working, and relaxation. Cultural centers, convention halls, financial districts, industrial complexes, multiple-unit housing, harbors, railroads, shipping facilities, yes, even transportation systems for the movement of its people within the metropolitan area were designed, constructed, and operated without benefit and in many instances before the establishment of a Federal Government.

This was accomplished with our private institutions and the private sector of the economy taking the lead, and meeting the challenge. The challenge brought improvement and progress.

Urban growth brought increased demands for public services. The broadened tax base and new sources of tax revenue stimulated the local jurisdictions. New ideas of providing these services with self-liquidating bonds, permitting the fare box and the fee window to meet the financial obligations began to unfold. The problems of today and those that will arrive on the horizon of tomorrow are no greater in degree than were those of the past, when we consider the ability of man and the technological advances of the last century at his command.

Mass rapid transit is only one of a multitude of local problems. The nature of its complexity, the variety of local forms the problem assumes across the Nation should make it, certainly, no more vulnerable to Federal intervention and attention. From my 12 years in local government and 7 years as mayor of my home city, a great metropolitan area, it is my opinion that the Federal Government has penetrated its way into so many local functions that the States, counties, and cities could become, in the foreseeable future, mere hollow shells and agencies of Federal bureauracy. Those of us who are willing to allow the Federal agencies to drive their relentless inroads into the hearts of our local affairs have little faith in the real greatness of our Nation, those citizens who live and work in our cities.

From the past we learn the lessons of the present and view the prospects for the future. Our local governments have demonstrated their ability to meet, head on, the issues of the day. And, from the pages of history, as I read them, they have done a better job in many respects than has the Federal Government. Over the centuries of history our cities have borne the burden of providing public services. Central governments have come and gone—buried with the dead past. But the local communities survive and thrive. No central government in the world today can compare in age with even some of the newest of our cities. Next to the family, the community is the fundamental foundation unit of society and derives its strength from meeting and solving its own problems just as does the family.

Even in this so-called critical situation, the community will weather the storms of adversity and frustration, even the present threat to its autonomy.

Mr. Chairman, America's strength is in her local entities, and her communities are strong because they have had to develop public muscle in dealing with the multiplicity of demands made by their citizens. These same citizens have the inherent right and responsibility to continue to meet these demands without the interference nor the direct assistance of the Federal Government. Mass rapid transit is only one of a multitude of local problems. Let us permit our cities, States, and counties to continue to deal effectively with these local situations. By far the most beneficial action that could be taken by this Congress would be the release of revenue sources to the States and local governments, thereby gaining in both total dollars and efficiency through the elimination of the Federal brokerage fee, the imposition of expensive controls and conditions, and by allowing the people to maintain a powerful and influential voice in the conduct of their own affairs.

Mr. PATMAN. Mr. Chairman, I ask unanimous consent that the gentleman

from New Jersey [Mr. RODINO] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. RODINO. Mr. Chairman, my support of H.R. 3881, approved by the House Banking and Currency Committee, is evidenced by the fact that I introduced a bill early in the first session of this Congress, H.R. 1960, which closely parallels the bill now before the House.

H.R. 3881 is designed to assist State and local agencies, not only in planning mass transportation facilities and developing improved equipment, techniques, and methods, but also in financing areawide coordinated systems by means of grants and loans.

While this measure will provide Federal financial assistance to States and local agencies in improving and extending urban mass transportation systems, planning at the local level and coordination of areawide transportation are prerequisites for Federal aid. Areawide planning and research are essential to long-term solutions of urban transportation problems. They will be stimulated by the legislation under consideration by its provisions for research, development, and demonstration programs. The cost of the program will be modest—$500 million spread over a period of 3 years.

Historically there is precedent for Federal assistance to transportation without Federal infringement on the sovereignty of the separate States. No one segment of the transportation industry, or single level of government, can absorb the total responsibility for providing efficient movement of people and goods. The cooperative efforts of all are needed. H.R. 3881 emphasizes the role of the State and local agencies in providing for grants and loans to be made under prescribed conditions to public bodies rather than directly to private transportation companies or agencies.

Indicative of the basic soundness of the proposed legislation is the requirement of maximum financing of a particular project from service revenues. Another significant provision is the prohibition of use of Federal funds, to be made available by the measure, for operating expenses. That is, no operating subsidies would be provided.

Several authoritative studies of urban transportation as an important economic factor in area development have stressed the need for sound planning of transportation as part of overall metropolitan planning to assure the most efficient utilization of all facilities to incorporate all modes of transport into an integrated system, where each form supplements and complements the others. Each region has its own unique characteristics and problems; transportation facilities must be tailored to fit the peculiar needs of each. Substitution of one form of transport for another is no solution; different modes perform different functions.

But, transportation systems must not be devised in a vacuum. They must be placed within the framework of all other urban planning and programing. Transportation must be an integral part of comprehensive land use and community development for whole urban areas or regions. One purpose of H.R. 3881 is to encourage coordination of plans and cooperation among the several political jurisdictions which are often involved. We have metropolitan areas but no "metropolitan government."

No blueprint can be devised which will cover all situations or be applicable in all communities. Therefore, the provisions of this bill are directed toward assisting the States and local bodies in evolving a coordinated transportation system which will be applicable to conditions in their respective communities. Rigid formulas would be useless in view of the rapidly changing character of the urban areas and the shifting population. Thus, the proposed method of assistance is most practicable because the State and local agencies to which financial assistance is to be given are in the best position to keep abreast of, perhaps even to anticipate, trends which indicate necessity for specific transportation facilities which will contribute to rather than hinder progress.

Despite the existence of one of the most highly developed and diversified transportation systems in the world, public transportation in the United States has not kept pace with the growth and increasing needs of urban areas. These metropolitan areas are the backbone of our national strength. Their continued growth and consequent contribution to the national economy depend on adequate transportation systems within the areas as well as between them. Common carrier service has continued to decline in recent years, though some 40 percent of our population is dependent upon public transportation.

Congestion and inadequate urban transportation are a burden to the national economy. Loss of time, added fuel consumption, et cetera, because of traffic congestion add to the cost of moving goods through metropolitan areas and hence to prices paid by the consumer for these goods.

The need for a balanced transportation system which will assure transportation facilities for all segments of the population, improve traffic flow, and meet the total urban needs at minimum cost to the economy is clearly indicated. All transportation programs, urban renewal projects, and urban planning assistance programs will become more effective with the passage of H.R. 3881. This legislation will not solve all our transportation problems but, hopefully, it will expedite implementation of farsighted, rational methods to deal with these problems.

Mr. PATMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. PUCINSKI].

Mr. PUCINSKI. Mr. Chairman, I rise in support of H.R. 3881, which, in my judgment, may well be a latter-day Magna Carta for millions of Americans who day after day are hopelessly trapped in traffic jams during the morning and evening rush hours. This is the first time that a concerted effort is being made to help urban areas and rural areas of this country to develop a comprehensive transportation system which can provide adequate transportation for its people.

I should like to join in congratulating the gentleman from Alabama [Mr. RAINS] for preparing this legislation and sponsoring it. This may well become one of the most important bills ever passed by our Congress. I am also very happy to see that this bill is being moved on a bipartisan basis. Certainly our cities throughout the country are usually oriented along Democratic lines and our suburbs along Republican lines. This bill would help these metropolitan areas, regardless of political considerations or geographic determinations, to develop systems to serve the whole area. I think that those who oppose this legislation fail to recognize that it is in the suburbs of America that the greatest need for adequate mass transportation exists today.

We in Chicago are intensely interested in this legislation. We ask our colleagues from rural areas to recognize that 78 percent of the Nation's population lives in urban areas today. Metropolitan Chicago alone is the heart today of an industrial complex which, by 1970, will serve a population of 10½ million people. These people have to be moved to and from their work. I say that the traffic situation which exists in our transit systems across the country today is perhaps one of the most serious drags on our economy. I think it is actually cruel to expect American working people to spend almost 2 hours a day, an hour in the morning and an hour in the evening, and in many instances much longer than that, trapped in a car going to and from their work. For this reason, we certainly hope that this Congress will recognize that transportation is the very lifeline of our development and existence.

Much has been said here about local effort. This is no handout. This is no Federal handout. This legislation requires that local communities must make a one-third contribution toward development of their systems. We in Chicago have a Chicago Transit Authority which, I think, is one of the finest transit systems in the world. It was established many years ago. The Chicago Transit Authority today has to retire its bonds and maintain a depreciation fund. The Chicago Transit Authority is caught today in this hopeless situation where they cannot raise fares any higher because with every increase in fares, obviously, the volume of passengers declines. You can make public transportation so expensive that it no longer remains in the public domain. So the Chicago Transit Authority quite properly looks to this legislation for assistance in developing, through my own district, a $40 million rapid transit system in the median strip of the John Fitzgerald Kennedy Expressway. If this legislation is approved, Chicago could start on extending the Logan Square elevated in the median strip of the expressway very shortly and have the job completed in about 2 years. An effort has been made by local communities but they have now reached the very maximum of their ability. The Chicago

Transit Authority has tried many ways to raise the money but could not. Unless the CTA gets some help from outside, it just cannot get off the pad in expanding its system. For that reason we hope that this legislation will be approved. We had an experiment just recently in Chicago's North Side suburbs.

The Chicago Transit Authority developed the Skokie Swift. This has surpassed all expectations in volume of traffic. The Chicago Transit Authority itself had never expected the volume that the Skokie Swift is now carrying. The response of the people to an adequate transit system was immediate and enthusiastic. For this reason I would submit, Mr. Chairman, that not to approve this legislation indeed makes a mockery of our whole Federal Defense Highway System. You can take any expressway in any city in America during the early morning rush hours or the early evening rush hours and you see thousands upon thousands of cars hopelessly trapped on these highways. We make a mockery out of the $50 billion that we spent in developing this Defense Highway System when the very core of the system in large cities is inoperative during heavy traffic. This legislation complements the money we have already invested in the Federal highway system so that we can move people by mass transit means without requiring them to use the roadways.

Mr. Chairman, I hope Congress will approve the bill.

Mr. WIDNALL. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. BROCK].

Mr. BROCK. Mr. Chairman, I am deeply sympathetic with the needs of the big cities in this country. I have experienced some of the problems of commuting in Atlanta, New York, Dallas, San Francisco. Even so, I would like to point out just a couple of facts in relation to the figures that were brought out by the gentleman from Alabama [Mr. RAINS] when he submitted that 78 or 79 percent of all taxes are paid by the citizens of the metropolitan areas and that therefore this is a national problem. I think he is proving the case for the defense, when he states that they are paying these taxes, because we also have to remember that three-fourths of this Nation's wealth and productive capabilities are concentrated in these same areas.

We have all this wealth already existent in the major metropolitan areas. Why do they have to turn to the small rural taxpayer for relief of their problem? Why have they not been able to solve their problems already?

It seems to me a little incredible that we should have to come to the Congress of the United States within a few weeks after passing a $11 billion tax cut and offer a $500 million bill as an extra burden upon the Nation's taxpayers to subsidize the citizens of the richest areas of the Nation.

This legislation we are discussing touches basically about 8 to 15 metropolitan areas. They would receive the vast bulk of the money. We have heard about the traffic congestion in the city of Chicago, in Atlanta, and in New York. I think it is pertinent to point out that in Chicago, for example, the actual amount of traffic leaving the central business district daily declined 2,000 per day between 1950 and 1961. That is, there are less people leaving Chicago daily with the new facilities that they have, this magnificent subway and the outstanding transit authority that they have—and I compliment them on it, and the magnificent freeways that have been created—the fact still remains that in Chicago, Ill., there has been a reduction in the actual amount of traffic in their business district over the past 11 years. This is just a single instance, but the same situation is true all across the country.

In Detroit the level went down from 78,000 per day in 1944 to 73,000 in 1953. In Los Angeles, in Philadelphia, San Francisco, and Minneapolis, Washington and New York City, the story is the same. The central business district in these areas is not growing simply because the ring city concept is taking effect. The ring city concept exists because it is an advantage to be in the suburbs, people are moving there, they have put their businesses and their homes there. We cannot reverse a pattern that people are establishing because of their own desires. We cannot tell people that they have to ride a bus or train simply because we want them to ride a bus or a train.

Mr. Chairman, I think it is pertinent to point out that when we look at these large metropolitan areas which are not experiencing an increase in traffic in and out of the downtown business districts, that a study was made of eight of these major areas, including Atlanta, Ga. Parenthetically it was interesting to hear the Representative from Atlanta say that they of all people had to have this Federal help. The cost of the program for Atlanta proper is estimated at $59 million. The total amount of Federal help would only be $4 million additional. That is not a substantial amount of Federal aid to be talking about.

Mr. Chairman, the point is that out of eight cities which have a total program cost of $269 million, four cities in the United States, Los Angeles, New York, Pittsburgh, and San Francisco, would take 86 percent of the total funds expended.

Mr. Chairman, back during the committee hearings we had the president of the Pennsylvania Railroad, Mr. Symes, testify before our committee. Mr. Symes made a rather interesting point. He said:

> We have to compete not only with trucks, highways, and automobiles, but also with the airlines.

He said, for example, if they got the same subsidy that Allegheny Airlines received——

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. WIDNALL. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. PATMAN. Mr. Chairman, will the gentleman yield to me at that point?

Mr. BROCK. Yes, I yield to the gentleman from Texas.

Mr. PATMAN. I wonder if my colleague is overlooking section 12 about the limitation of 12½ percent that any one State can receive?

Mr. BROCK. No; I am not, Mr. Chairman. I am talking about the projected cost of these eight cities. I am not talking about the overall program in that context.

But, Mr. Chairman, back to the Pennsylvania Railroad, the chairman of the board said if they just got the same subsidy per passenger mile that Allegheny Airlines got, they would receive $40 million per year in additional revenue.

I asked Mr. Symes:

> What would you save if you had the work rules in effect that you have asked for, if you were given the right of free collective bargaining without Federal intervention?

He said, "$500 million." I said, "How much would the Pennsylvania Railroad save?" He said, "$40 million."

The point I would like to make is that if the Federal Government would remove present strangling regulations instead of putting its hand further into meddling with collective bargaining and with free enterprise, perhaps we would have an opportunity to have decent commuter facilities, an opportunity to compete, and an opportunity to operate with efficiency. We cannot do this if we are going to impose another Federal control, another Federal program on top of the incredible hamstringing already existent. Why impose another program which is going to cost 4 percent at the Federal level, when the local communities could borrow the money at 3⅛ to 3¼ percent.

Mr. Chairman, I urge the defeat of this bill.

Mr. PATMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. PIKE].

Mr. PIKE. Mr. Chairman, I thank you for yielding me this time at this hour to speak before this large and enthusiastic gathering on this legislation.

Mr. Chairman, there has been a great deal of talk about the great cities and the effect of this legislation on the great cities of our land.

Mr. Chairman, I do not happen to live in a great city. I live in a rural area. I live in a little town called Riverhead. We grow ducks out on Long Island, and in Riverhead right now there are probably more ducks than people. We are 80 miles from the island of Manhattan. Long Island is 150 miles long, and it happens to have 7 million people on it. It has 14 Congressmen. I represent the easterly half of the island, and the other 13 represent the westerly half of the island. So, I do not think I have to prove that mine is a rural area.

Mr. Chairman, my feeling about the city of New York is the same as that of a great many other people. It is a nice place to visit, but I really do not want to live there. However, I would like to be able to visit it in convenience once in a while.

Mr. Chairman, you know we built a Long Island Expressway with Federal funds. But before the rural end can be completed, the urban end is so clogged with traffic it does not matter whether we complete the rural end or not.

Mr. Chairman, we are building roads and more roads. The westerly end of Long Island is becoming a vast mass of concrete. However, we cannot build enough roads to solve this problem. Everyone recognizes the existence of the problem.

Mr. Chairman, those who oppose this bill do not say there is not any problem. They say "do not do it this way," or "do not do it now," "let the States do it," or "let the cities do it."

I do not happen to think that the Governor of the State of New York enjoys the traffic strangulation of the highways in the State of New York, and if he thought there was some easy way of solving this problem he would have done something about it, and I believe he would have liked to have done something about it.

As I said at the beginning, Mr. Chairman, we raise a lot of ducks on eastern Long Island. We raise chickens, and we raise turkeys. One thing which we do not have, however, is ostriches. It would take an ostrich to believe that there is no crisis in mass transportation on Long Island. It would take an ostrich to believe that new efforts were not urgently needed to solve this crisis.

More than half a century ago, my father worked for the Long Island Rail Road, and recently, among his effects, I found a timetable more than 50 years old which showed that mass transit was more efficient on Long Island then than it is today.

I would hate to have my own children say, 50 years from now, that mass transit was better in 1964 than it is in their time because we, in our generation, looked the other way and ignored this problem.

Mr. WIDNALL. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. COLLIER].

Mr. COLLIER. Mr. Chairman, I have listened to the debate for the better part of the afternoon and have been totally unimpressed by the arguments for the legislation now before us.

It merely bears out the fact that regardless of what problem exists at the local, State, or even private level, there are those who seem to think that the only solution rests with the Federal Government. Grabbing for Federal funds has consequently become a national pastime.

In my own district, which happens to be a suburban area, I have not had a single request from a commuter for support of this legislation. Who do the letters come from? Where is the force of support coming from? Well, from all of those who will benefit either directly or indirectly from the Federal subsidy. Hence, they ask that we get Uncle Sam into a project wherein the Federal Government has no jurisdiction or authority. It is strictly a local problem.

All afternoon we have heard proponents of this bill talk about how nice it is to get folks to work on time. I am in favor of that. In fact one went so far as to say that this is a bill to determine whether or not we intend to preserve the beauty of the cities of this Nation. I can assure you we will have beautiful or ugly cities whether this bill passes or not, and whether or not the private or local folks meet their responsibility.

I can understand why Members from the city areas would support this bill. Because those of us in the suburbs realize that it is both understandable and advantageous for them to have a transit system and to keep improving the transit system which would to some degree stunt or stem the economic growth in the suburban areas. But just as water seeks its own level, so do economic factors determine the course of economic centralization or decentralization of economic facilities, business or industrial.

We have seen in the past 15 or 20 years a tremendous growth in the suburban areas. We have also seen the movement of industry from the large cities into the suburban areas and the growth of large shopping centers. This is a way of life that nothing is going to stem. It is a healthy condition and if these areas benefit because it is more convenient for workers and shoppers to rely less and less upon traveling "downtown" for employment, shopping, or entertainment I see no reason for Government subsidies to try and change it.

In view of the arguments we have heard up to this time, I would like to read from a letter which was written to me by the chairman of the board of a suburban Chicago transit line. Obviously he is not interested in getting his fingers into the Federal Treasury for subsidies. The author is Paul Dittmar, past president of the American Transit Association, who opposes this bill. This gentleman is undoubtedly better versed in the field of transit systems and operations than most of the Members of the House who have talked for the bill today.

He says, and I am quoting part of his communication to me:

> Almost all transit companies are profitable in varying degrees, and are able to finance additions and improvements. Chicago's CTA 3¾ percent revenue bonds are now selling above par.
>
> If financial help is needed for capital improvements, the banks, investment houses, or the city or State should supply it.
>
> Urban transit is a local concern. The Federal Government should not become involved.

It was mentioned by some of the speakers earlier today that Federal involvement in mass transportation is not new. But I find little similarity in his comparing this bill and the subsidy of the mass transportation system of waterways, airlines, railroads, and so forth, because we are speaking on the one hand of interstate commerce, where it has been constitutionally recognized that the Federal Government has jurisdiction and authority, and on the other hand we are dealing in this legislation with intrastate commerce. The latter properly has been a local problem and I believe should remain so.

Mr. Dittmar incidentally also points out that:

> Most Federal transit aid would go for new rail rapid transit, in spite of the fact that rail urban transit has been a colossal failure for the last four decades. Rails for commuter transit service have been ripped up almost everywhere. Passengers have abandoned rail transit.

So I say to you today that I fear if this legislation is passed we are merely getting the Federal Government into an area where it does not properly belong, and that this might well be another one of those steps in the direction of "improving" the country to death.

Mr. WIDNALL. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. MCCULLOCH].

Mr. MCCULLOCH. Mr. Chairman, earlier today I introduced a joint resolution proposing an amendment to the Constitution of the United States to guarantee the right of any State to apportion one house of its legislature on factors other than population.

The joint resolution is as follows:

H.J. RES. 1055

Joint resolution to amend the Constitution of the United States to guarantee the right of any State to apportion one house of its legislature on factors other than population

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States.

"ARTICLE XXV

"SECTION 1. Nothing in the Constitution of the United States shall prohibit a State, having a bicameral legislature, from apportioning the membership of one house of its legislature on factors other than population, if the citizens of the State shall have the opportunity to vote upon the apportionment.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

On June 15, 1964, the Supreme Court of the United States decided that the sovereign States of the Union do not have the authority or the right to apportion one house of their legislatures on the basis of factors other than population alone.

The Court declared that the equal protection clause of the 14th amendment requires that the States compose both bodies of their legislatures so that every member of each house represents substantially the same number of people.

If legislative districts are not equal in population, so the Court contends, voters in the more heavily populated districts will suffer an unconstitutional debasement of their votes.

It has appeared to a rapidly increasing number of thoughtful citizens that the Supreme Court has begun in recent years to exceed its proper authority and usurp powers which long have been held to belong to the States or to other branches of the Federal Government. Without doubt, these most immediate decisions of the Court proceed the farthest along this wayward path and do the most harm to the longtime concept of States rights.

Initially, the Supreme Court must be questioned for its decisions which impose a novel interpretation of the equal

protection clause of the 14th amendment.

The 14th amendment was introduced, discussed, and passed by the Congress, and ratified by the States as a single unit. Its sections must be interpreted together and not split apart to stand alone in meaning. History reveals that from its inception, the 14th amendment was never intended to prevent a State from choosing any legislative structure it believes best suited to its needs. During the debate on the amendment in the House, it was concisely stated that the amendment "takes from no State any right that ever pertained to it." Of the 23 Northern States which ratified the amendment before 1870, 5 had constitutional provisions for apportionment of at least one house of the legislature without regard to population. Ten others, while giving emphasis to population, called for the consideration of other traditional principles of apportionment. Furthermore, of the 10 reconstructed States of the former Confederacy, which were required to ratify the amendment before readmission to the Union, the constitutions of 6 of them contained provisions which would not have withstood the manner of apportionment now presented by the Supreme Court.

The policy of apportioning one body of a State legislature on factors other than population long preceded the enactment of the 14th amendment. The obvious reason why the proponents of that amendment had no thought or intention of changing the established system may be traced to the conditions that existed early in our country's history. Long before the establishment of the Government of the United States, Colonial States existed. These States were composed of legislatures which had one or more bodies made up of members who were selected by means other than population alone. The drafters of the Federal Constitution were in agreement that the political rights of the States should be preserved if the people of the States agreed to form a Union. To this end, the "Great Compromise" was achieved. In order to safeguard the rights of the smaller States and to grant them an equal voice in the Union, the Senate of the United States was to be composed of two Members selected by the people of each State. The weight and importance of the large States was to be insured through the House of Representatives. But, the rights and safeguards of the lesser States were to be protected in the Senate by equal representation, without regard to population.

The analogy to the legislatures of the States may be closely drawn. Not only did all of the original States have legislatures in which at least one body was selected on factors other than population, but the drafters of the Constitution recognized the value of this plan and clearly intended that no action of the Federal Government should overturn it. Perhaps, it is true, as the Supreme Court suggests, that counties or other local units of government are not sovereign bodies in the same manner that States are, and that, therefore, the theory of the "compromise" does not apply to them. But, this argument seems specious and completely disregards the primary reason for establishing a bicameral legislative system.

The "Great Compromise" was not worked out because theoreticians determined that sovereignty demanded the equal representation of States in one body of Congress. Instead, it was devised because practical men of infinite wisdom in planning and creating the best form of government ever devised by men, believed that factors other than population alone should determine the strength of the voice of States, regardless of wealth or size.

The same reasoning applies to State government and it has been the case since before the adoption of our Constitution. There are now 50 States in the Union, each with separate characteristics. Within each State, a wide range of local characteristics exist involving unique history, geography, topography, climate, distribution of population, political heritage, and individual citizen's economic, political, and social interests.

Counties, or similar units of local government, are generally the largest autonomous political units in a State. Their functions and responsibilities are normally of great significance. Law enforcement and judicial functions, bridges and highways, systems of education and transportation, administration of welfare and recreational programs, and agricultural and business matters are among the many duties, to a greater or lesser extent, that fall upon or must be maintained by counties.

It is correct to say, as the Supreme Court does, that legislators represent people, not trees or acres. But, the people who reside in States are not mere numbers. They are people with dissimilar and sometimes conflicting needs, with conflicting hopes and aspirations, with ever-changing problems that sometimes fail to yield to computer logic. Through the wisdom of the people themselves, as represented by the elected leaders of sovereign States, they may well decide that there is a need for representation of particular interests in one body of a legislature in contrast to the representation of general interests in the other body.

Some people may live in areas of high employment, others in depressed areas with high unemployment. Some may be lumbermen, miners, fishermen or farmers. Some may be of one religion or national origin peculiar in need or consideration from those of another religion or national origin. Some may live in rural areas or small towns while others live in metropolitan areas or suburban expanses. Some may direct their needs toward secondary roads or superhighways while others are more concerned about rapid transit systems. Some may require priority consideration of irrigation projects while others demand consideration of water systems.

Between each group, conflicting interests of varying degree develop, with each conflict producing a majority and a minority. Certainly, the majority must have effective rule, but the minority, too, is entitled to effective representation lest important segments or our people be completely subject to the tyranny of a temporary majority. The enactment of the civil rights laws has clearly demonstrated the truth of this proposition. Abandonment of this concept will most certainly convert our system of government, the oldest constitutional government in the world, to something alien thereto and potentially dangerous to individual liberty.

To authorize both houses of a legislature to be apportioned on the basis of local need or selected interest would, of course, be unfair and inimical to the general public interest. But, by the same token, the requirement that both houses be apportioned strictly on population alone would amount to a desertion of the rights of the minority and to a cavalier abandonment of the unique needs of the individual citizen. If the latter concept is to stand, how soon will come the frontal assault on article I, section 3 of the Federal Constitution?

For these reasons, I have introduced a resolution to amend the Constitution of the United States so that States having a bicameral legislature, may apportion one house on the basis of factors other than population. In so providing, however, the citizens of the State shall have the opportunity to vote upon such apportionment.

The Supreme Court calls for apportionment on the theory of "one man, one vote." A slogan, of course, cannot be a proper substitute for logic and in all likelihood it will not, for long, guard individual rights. As discussed above, apportionment according to population must be tempered by other considerations of equal importance. But, in so doing, it is necessary to permit all qualified people of a State to vote upon plans of apportionment, so that the rights of the majority cannot be seriously or unfairly impaired.

The Supreme Court probably was correct in striking down the apportionment in one house of the Tennessee Legislature in the case of Baker against Carr. There, reapportionment had not taken place in more than 60 years, in violation of State constitutional provisions. And the people of that State had little or no means to initiate or vote upon a plan of reapportionment. On the other hand, a great many of the States, by constitutional authority, provide the means whereby every qualified citizen may vote on the apportionment provisions of their constitutions. The Supreme Court could have issued a narrow decision in the Baker case, specifically related to the unique facts and circumstances therein, without doing harm to the whole concept of State sovereignty. Yet, with regrettable frequency, in recent years the Court seems to be assuming the role of elected officials and taking up the mace of the lawmakers. By such unwarranted action the Supreme Court invites increasing public distrust and rebuke. Abraham Lincoln once said:

> The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in

ordinary litigation between parties in personal actions the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal.

I earnestly request every Member of Congress to study the decisions of the Supreme Court on this momentous issue, and I cordially invite those, who are inclined to do so, to join with me in presenting the proposals to the appropriate committee of the House, and to the House itself.

Mr. PATMAN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. COHELAN].

Mr. COHELAN. Mr. Chairman, I rise in support of this bill which I have joined in sponsoring to provide additional Federal assistance for the development of comprehensive and coordinated systems of urban mass transportation.

American cities have had an extraordinary transportation burden thrust upon them in recent years. During the last five decades the percentage of our rapidly growing population living in urban areas has increased from 46 percent to more than 70 percent. And this growth and concentration is continuing with gathering speed.

Furthermore, while automobile production has kept pace with this urban explosion, municipal transportation systems have lagged far behind. Thus the all-too-familiar scene in cities across our country today is the bumper to bumper, crablike inching of traffic and the desperate search for parking.

Highways have, and will continue, of course, to play a major role in facilitating transportation. But it has become increasingly clear that there is one mammoth problem which they alone cannot hope to meet, except at prohibitive cost. This is the problem of morning and evening rush hour travel from home to work. It is the problem of the 20-hour-a-week rush hour need that has forced the allocation of $20 billion of the $41 billion interstate program for urban highway construction.

Mr. Chairman, in their excellent report 2 years ago to the President, following a comprehensive study of urban transportation, Secretary of Commerce Luther Hodges and Dr. Robert Weaver of the Housing and Home Finance Agency stated that:

> The major objectives of urban transportation policy are the achievement of sound land-use patterns, the assurance of transportation facilities for all segments of the population, the improvement in overall traffic flow, and the meeting of total urban transportation needs at minimum cost. Only a balanced transportation system can attain these goals, and in many urban areas this means an extensive mass transportation network fully integrated with the highway and street system.

Based on the experience of the loan and demonstration programs initiated 2 years ago, Dr. Weaver has reported further that major capital expenditures for mass transportation cannot be supported entirely from the fare box; that a public contribution will be necessary if most large, and many smaller urban areas as well, are to provide the kind of mass transportation required for their healthy growth.

Mr. Chairman, this bill is of great importance to the Seventh California District which I represent, and to the entire metropolitan area surrounding San Francisco Bay. And this importance highlights the vast benefits this legislation holds for countless American cities.

For more than a decade now, citizens from the cities surrounding San Francisco Bay have been conducting the kind of intensive and comprehensive local planning which this bill seeks to inspire. They have conducted extensive studies designed to produce what can be the most modern and efficient rapid transit system in the world. They have, using local taxes, created and supported an effective public regional agency which can build and operate this system. Two years ago they voted $792 million in general obligation bonds to finance construction of a 75-mile rapid transit system. And just this last week the test track was dedicated by President Johnson.

Where there is such local effort, Federal financial participation becomes an investment in the future of a local area—not a grant. It is an investment which helps a local area help itself prepare for the future. It is an investment, in brief, which I believe will pay rich dividends to the productive development of a vibrant and growing metropolitan area.

But, Mr. Chairman, the San Francisco-Oakland-Berkeley Bay area should not be penalized for its initiative in the apportionment of Federal funds. The fact that it has already passed a general obligation bond issue should not under any interpretation preclude it from benefits made available under this legislation to other metropolitan areas.

Rather, this type of initiative should be encouraged. For to deprive the San Francisco Bay Area Rapid Transit District of benefits available to other cities and urban areas would be an endorsement by Congress of the proposition that metropolitan areas should do nothing to help themselves obtain improved transit facilities; that they should sit back and let the Federal Government do the whole job.

This bill, if enacted into law, could shorten the construction period of the San Francisco Bay Area Rapid Transit System by 3½ years; from 8½ to 5 years. It could result in savings on interest and inflation costs totaling as much as $175 million. It would speed considerably the time when meaningful extensions could be made to this system, and I am confident that similar savings and advantages could be achieved, under this legislation, by many other urban areas throughout our country.

Mr. Chairman, this mass transporation legislation offers us an opportunity for effective attack on one of the serious and persistently troublesome problems confronting our Nation's urban areas. It utilizes an approach which takes full advantage of local initiative and local responsibility. I urge that it be approved and implemented without further delay.

Mr. WIDNALL. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. FINDLEY].

Mr. FINDLEY. Mr. Chairman, I ask unanimous consent to proceed out of the regular order.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FINDLEY. Mr. Chairman, on page 14723 of the June 23, 1964, CONGRESSIONAL RECORD is Executive Communication No. 2199, announcing that the Export-Import Bank, a financial institution owned entirely by the U.S. Government, has issued its credit guarantee for a $760,000 sale of cotton to the Communist Government of Hungary.

This is in compliance with a provision in title III of the Foreign Aid Appropriation Act of 1964 and pursuant to a determination made by President Johnson on February 4, 1964, that such credit guarantees to the Hungarian government, the Soviet Union and certain other Communist goverments are in the national interest.

This provision became a part of title II only after a long legislative battle that ended on Christmas Eve. It gave Congress and the public assurance of prompt announcement if and when the resources of the U.S. taxpayers are used to help finance the Communists. As the result of President Johnson's determination of February 4, the taxpayers are now helping to finance the Hungarian Communist Government.

If it had not been for this provision of title III, this aid to the Communists might never have come to light—certainly not as promptly as was the case today.

The announcement is especially timely, as the 1965 Foreign Aid Appropriation Act is nearly ready for House consideration. Let us hope that the House will insist once more on this wise provision.

It is a sad day when the CONGRESSIONAL RECORD publishes official notice that the U.S. taxpayers are backing credit guarantees for the same Communist regime that crushed the Hungarian freedom uprising in October, 1956. It would be a day even sadder if this information had been kept from the eyes of the taxpayers.

Mr. WIDNALL. Mr. Chairman, I yield back the remainder of my time.

Mr. PATMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. RYAN].

Mr. RYAN of New York. Mr. Chairman, I rise in support of this legislation. The bill H.R. 3881 reported over a year ago, on April 9, 1963, by the House Banking and Currency Committee, is a measure which will provide Federal financial assistance to States and localities in improving and extending urban mass transportation systems. It requires at the local level planning and coordination of areawide transportation as a prerequisite for Federal aid and provides for a research, development, and demonstration program. Areawide

planning and research are certainly essential to long-term solution of our urban transportation problems, and this bill will provide a needed stimulus to such planning.

In recent years Federal aid has been focused to a major extent on one mode of transportation, the automobile. Although our $41 billion interstate highway program is essential and has produced great benefits, it has also aggravated problems for cities from New York to Los Angeles. It is a well-known fact that as highways are built to solve one congestion problem, another often develops. People are encouraged to use their cars to drive into the cities by the existence of better and faster roads. This creates parking and traffic problems in the center of the cities. In this respect, the problems of the city with which I am most familiar, New York, are acute. A former director of the New York Office of Transportation has commented that a horse-drawn truck traveling around New York City in 1910 averaged 11 miles per hour while today a motor vehicle in the heart of the city cannot average 6 miles per hour. This seems to indicate that in congested areas the automobile has limits as a fast and efficient means of transportation. There is simply a limit to the number of automobiles that can be poured into a given area without destroying the usefulness of the automobile. There is also a limit to the amount of space in a given area which can be devoted to roads and parking garages without curtailing the area's assets as an economic and cultural center. Since the automobile takes up three times as much space as the office space necessary for one person, the more automobiles the less room for people—and great cities are made up of great aggregations of people, not automobiles.

Recognizing this, the New York City Planning Commission vetoed, in 1961, a $57 million program to provide 10,000 additional parking places in midtown Manhattan. The commission explained:

> New parking garages in the midtown core would attract many commuters, business travelers, and shoppers who presently use mass transit or less convenient parking facilities. This means, in effect, not more business travelers, not more shoppers, but more automobiles.

A recent study of the transportation problem of Long Island stated that:

> If present trends toward increased auto use continue, the Regional Plan Association has estimated that by 1985 there will have to be at least a doubling "of limited-access highways now in use or under construction." Moreover, if the projection that there will be a million additional automobiles registered on Long Island by 1985 is correct, some 11 square miles of parking space will be needed to park all of these cars at one time, and since parking space must be available at both ends of an automobile trip, the actual parking requirements will be greater. ("Journey to Work Report," New York State Office of Transportation, 1963.)

In the past few years, there has been a disturbing trend toward abandonment of mass transportation facilities. In the State of New York, 35 transit companies have been sold or abandoned since January 1954. Many small communities throughout the Nation are completely without transit service of any kind. The American Transit Association has estimated that 105 localities have lost all transit service since 1954 and 79 percent were of communities of less than 50,000 population. The loss of public transportation certainly works a hardship on those citizens who do not drive and forces expensive readjustments such as the necessity for additional cars and roads. It has been estimated, for example, that if Chicago were to abandon mass transportation, an additional 600,000 automobiles would be needed, plus 160 additional expressway lanes and extensive parking facilities.

The permanent collapse of commuter rail service in Chicago, New York, Boston, Philadelphia, and Cleveland would require $31 billion of new highways to handle the increased auto traffic.

This bill is a start in reversing the trend toward abandonment of mass transportation systems. It has a provision for emergency loans and grants that may be utilized by communities which face loss or curtailment of service or for some other reason need prompt aid. This provision should be a definite help in localities faced with a critical situation.

To help meet the long-range needs of our urban population, the bill requires areawide planning. Problems of mass transit faced by many of our metropolitan areas cannot be solved by one jurisdiction alone. The U.S. Conference of Mayors has stated that:

> The need for joint and cooperative local, State, and Federal Government action has now been recognized as essential for the development of an adequate mass transit system in our metropolitan areas.

In the New York metropolitan area there are something like 1,400 governmental units. One body created to help solve this fragmentation of authority is the Tristate Transportation Committee. New York, New Jersey, and Connecticut work together through this committee to develop regional transportation plans. Legislation to make the work of the committee more effective by making it an interstate compact agency now awaits only action by New Jersey.

Under the terms of the bill, there is a provision for limiting any State to 12½ percent of the total Federal grant. For New York City projects, however, the three States could pool their eligibility and obtain up to 37½ percent of the total grant funds. Projects most likely to be considered under this arrangement would involve commuter railroads. The need for improvement of this type of transit is well recognized. The steam commuter trains from Norwalk, Conn., in 1893 took 61 minutes to get to New York. In 1963 the timetable shows it takes at least 60 minutes with an electric locomotive.

Railroads complain that they cannot make money on their commuter service. In the Tristate metropolitan region the commuter railroads are piling up deficits every year. Yet if the railroads could increase and improve their commuter services to the city, congestion on highways and perhaps on subways would be decreased. Railroads remain an important part of the overall transportation network.

The Tri-State Transportation Committee under the present demonstration grant authority included in the urban renewal program has obtained grants for several demonstration projects. One project consists of testing equipment at two stations of the Long Island Rail Road with the object of speeding up passenger flow. The equipment is designed for automatic fare collection and ticket validation. Another project is an experimental bus-train relay for commuters which tripled passenger volume in its first 6 months of service.

H.R. 3881 would enlarge the scope of the demonstration program. A research, development and demonstration program would be authorized for all phases of urban mass transportation. The unobligated balance of the present $25 million authorization plus up to $30 million of the total $500 million grant authority would be available to finance projects. This would spur needed research by Tri-State and similar agencies. It is only by such research that we can explore new approaches to solving our urban transportation problems.

Some 70 percent of the population of the United States today live in urban areas. Both our population and the percentage living in urban areas is expected to increase in the years ahead, creating additional pressures on our transportation facilities. The New York metropolitan region study projected 24 million people and 9½ million jobs in the New Jersey, New York, Connecticut metropolitan region in 1985. Even now New York City has more people than there are farmers in the entire country.

The cost of the program proposed in this bill is modest. Total funds authorized would be $500 million over 3 years. Maximum funds available to the State of New York would be $62.5 million. Compare this to the cost of the proposed expressway across lower Manhattan which has been estimated at costing up to $100 million a mile. It has also been estimated that the Federal Government will spend over $16 million for highways in urban areas before the Interstate System is completed in about 10 years.

Under the interstate and defense highway program, the Federal Government contributes up to nine-tenths of the money; under the terms of this bill local funds will be required for one-third of the net project cost.

Mr. Chairman, surely we can afford to spend $500 million to encourage the development of integrated, efficient urban transportation systems. This bill will not solve our mass transportation problems, but it should be an important impetus to coping with these problems in a farsighted, rational way.

Mr. ALGER. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ALGER. Mr. Chairman, local problems require local solutions. Government closest to the people is best.

Adopting Federal programs like this mass transit subsidy substitutes rather than supplements local and satisfactory solutions to the problems.

The cost of mass transit is too great for Federal financing. The peculiar problems of localities, that is, the cities and urban areas, are too diverse and specific to permit blanket solutions by superior Federal programs. Local problems need local administration, local jurisdiction, local planning and control. Federal aid requires Federal guidelines, planning and control which nullify and contradict local needs and local control.

In answer to how best to provide local transportation, to finance the cost, to set the fares, to plan and administer, in each case the answer is local, not Federal, that provides the best solution.

I join with those members of the Banking and Currency Committee who joined in the minority report. I commend them and share their views.

Mr. PATMAN. Mr. Chairman, I yield back the remainder of my time, and ask that the bill be read.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Urban Mass Transportation Act of 1963".

Mr. PATMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Moss, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3881) to authorize the Housing and Home Finance Administrator to provide additional assistance for the development of comprehensive and coordinated mass transportation systems in metropolitan and other urban areas, and for other purposes, had come to no resolution thereon.

RESIGNATION FROM COMMITTEE

The SPEAKER laid before the House the following resignation from a committee:

Hon. JOHN W. MCCORMACK,
The Speaker,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: This letter is to tender my resignation from membership on the House Committee on Rules.

Yours very truly,
WILLIAM H. AVERY,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

ELECTION OF MEMBER TO THE COMMITTEE ON RULES

Mr. HALLECK. Mr. Speaker, I offer a privileged resolution, and ask for its immediate consideration.

The Clerk read the resolution (H. Res. 790), as follows:

Resolved, That DAVE MARTIN, of Nebraska, be, and he is hereby, elected a member of the standing committee of the House of Representatives on Rules.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADDITION TO LEGISLATIVE PROGRAM

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, I take this time to advise the House that on tomorrow the gentleman from Texas [Mr. MAHON] will call up the continuing resolution on appropriations.

WHAT ABOUT THIS FILIBUSTER?

Mr. BECKER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include two editorials.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BECKER. Mr. Speaker, I am inserting in the RECORD today an editorial appearing in the Manchester Union Leader of June 19, 1964, entitled "What About This Filibuster?"

Every Member of the House should read this editorial, and I commend it to the attention of all of our citizens. This is another answer to the statements being made that the "tide is turning" against any amendment to permit prayer and Bible reading in public schools. More mail is coming in now in support of an amendment; more groups, clergymen, and organizations are joining in support every day.

The chairman of the Committee on the Judiciary of the House, opposed even one delay on the civil rights bill in the House and the filibuster in the other body. But it is perfectly all right for him to filibuster any action to bring before the House a constitutional amendment that would permit the return of prayer and Bible reading in the public schools. Why? Because he is unalterably opposed to any amendment.

One Congressman, testifying before the Judiciary Committee, suggested a resolution to permit believers' children to remain silent for a stated period—silent prayer. The chairman, the gentleman from New York [Mr. CELLER], remarked that it is a "good idea, and will get Congressmen off the hook."

It would appear that it is not a question of the right of the American people to have their children participate, voluntarily, in prayer or Bible reading in public schools, but a matter of political expediency to do something innocuous that would "get Congressmen off the hook."

I doubt seriously that any Member of the House, on this issue, wants to be taken off any hook. I hope that Members will sign discharge petition 3, and bring this matter to the floor as quickly as possible, and bring an end to the 2-year filibuster conducted by the chairman of the Judiciary Committee.

WHAT ABOUT THIS FILIBUSTER?

Representative FRANK J. BECKER, nationally recognized head of the campaign for a constitutional amendment to allow Bible reading and prayer recitation in the public schools, has warned the House and the Nation at large that time is running out and so far "we have no result" from the House Judiciary Committee's long hearings. The New York Republican is again appealing for signatures on his discharge petition to bring the issue directly to a House vote. Only 52 more signatures are needed, and to our knowledge neither of New Hampshire's Congressmen have signed the discharge petition to date.

There is a dangerous tendency by many Americans to think of the Supreme Court's prayer ban rulings as a single issue, rather than as part of a pattern. Charles E. Rice, associate professor of law at Fordham University, has shown that an honest analysis of the decisions of the past 15 years leads to the inevitable conclusion that the Supreme Court has repeatedly misinterpreted the first amendment and that one of the most disturbing elements in this trend has been the utilization by the Supreme Court of obiter dicta from previous cases as if they were fully established principles, when in reality they were peripheral, if not irrelevant to the cases.

In his book, "The Supreme Court and Public Prayer" (Fordham University Press, New York, 1964), Professor Rice expresses the belief that decisions in the Murray and Schempp cases, if they follow the pattern of the past 15 years, will open the door for future decisions that would remove from our national life every meaningful recognition of God, and make agnosticism the national religion.

We urge our readers to consider the following revealing section of the prayer ban decisions of June 17, 1963: "The test (of constitutionality) may be stated as follows: what is the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the establishment clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion." Earlier the Court had declared that neither a State government nor the Federal Government "can pass laws which aid one religion, aid all religions, or prefer one religion over another."

While the concurring opinion of Justice Douglas in the Murray-Schempp cases is more all-embracing than the official decision written by Justice Clark, Professor Rice points out that Douglas "is merely articulating the logical consequences of the wayward theories endorsed by the majority of Justices." Justice Douglas, in a footnote, listed the types of financing he believes to be unconstitutional. "To mention but a few at the Federal level," Douglas enumerated: Chaplaincies in both Houses of Congress and the armed services, compulsory chapel at the service academies (now being challenged), religious services in Federal hospitals and prisons, the President's religious proclamations, use of the Bible for oaths, the availability of WPA and NYA funds to parochial schools during the depression, veterans who attended denominational schools under the GI bill of 1944, use of Federal money during

World War II to train nurses in denominational schools, the National School Lunch Act as it applies to nonpublic schools, Hospital and Survey and Construction Act of 1946 as it applied to nonpublic hospitals, the slogan "In God We Trust" used by the Treasury Department (now being challenged), the word "God" in the pledge of allegiance (now being challenged), Bible reading in the schools of the District of Columbia and religious instruction in the District's National Training School for Boys, the exemption from the Federal income tax of religious organizations (now being challenged by Mrs. Murray), postal privileges of religious organizations, Federal income tax deductions for contributions to religious groups, the deductibility of gifts and bequests to religious institutions under the Federal gift and estate tax laws.

Of course, as Justice Douglas points out, this is but a partial list of instances of religious financing which he would discontinue and declare unconstitutional. But the American people are being urged not to worry their sleepy little heads about it—and those who do worry are caustically dismissed as extremists.

[From the Brooklyn Tablet, June 18, 1964]

SUPREME COURT'S LONG STEP BACKWARD

In a dissenting opinion by Supreme Court Justice Potter Stewart, Monday, a note was struck which is very timely. Objecting to the ruling of the Court outlawing the States' methods of apportioning their legislatures, Judge Stewart said:

"With all respect, I am convinced that these decisions mark a long step backward into that unhappy era when a majority of this Court were thought by many to have convinced themselves and each other that the demands of the Constitution were measured not by what it says but by their own notions of wise political theory."

What Justice Stewart states is that the Court is rewriting the Constitution. He might have added that the Court also seems to be supplanting both Houses of Congress, and seeks to regulate State matters which are not included in the Constitution.

RELIGIOUS PERSECUTION—A VIOLATION OF HUMAN RIGHTS

Mr. CAREY. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CAREY. Mr. Speaker, aggressive atheism is one of the most formidable challenges facing the free world today. I regret to state that by all appearances the position of our State Department and the U.S. delegation to the United Nations has been one of official disinterest or awkward apathy.

I believe that as the leader of the free world and a Nation dedicated to religious freedom from the first day of its existence, the United States must speak out clearly and firmly against religious persecution everywhere in the world.

In neglecting to do so our inaction gives rise to a presumption that we are not concerned with a moral issue which cries out for justice. Our muteness does a disservice to our position as the protector of individual freedom against persecution.

We were not silent in the days of Adolf Hitler, nor in 1917 or 1898 when tyranny sought to extend itself. Why are we silent today when the new tyranny of aggressive atheism attempts to envelop masses of civilized people all over the world? Aside from the moral question involved I feel we are failing to use what is probably our most effective and appropriate weapon against communistic propaganda.

Daily we hear assurance from Communists, both Chinese and Russian, that they are most anxious to aid the emerging and developing nations, whether in Asia, Africa, or Latin or South America. Each of these emerging and developing peoples possess deeply rooted religious or at least tribal ritualistic characteristics. Of themselves they certainly would not seek to abandon their religious backgrounds nor do we as a Nation attempt to exact religious concessions as a consideration for assistance. Yet, it may be clearly established that wherever communism has made progress it has always done so at the expense of religious freedom and with the indoctrination of atheism. It is as simple as this:

Where religion exists, freedom has flourished; where atheism has spread, freedom has died and tyranny has prevailed.

It is clearly to our advantage to point up this most important difference between the American way of freedom and Communist domination. Unless we do so, an emergent people can probably see little difference between the contending forces excepting in the amount of aid being offered.

I believe the issue of religious intolerance and persecution should be advanced in the world, using every medium and instrument for truth at our disposal.

In his encyclical "Pacem in Terris" of April 11, 1963, Pope John XXIII restated the concern of the Roman Catholic Church for the fundamental rights and duties of man. With regard to freedom of religion the encyclical observed:

> Every human being has the right to honor God according to the dictates of an upright conscience, and therefore the right to worship God privately and publicly. For, as Lactantius so clearly taught: We were created for the purpose of showing to the God who bore us the submission we owe Him. We are obliged and bound by this duty to God. From this, religion itself receives its name. And on this point our predecessor of immortal memory, Leo XIII, declared: "This genuine, this honorable freedom of the sons of God, which most nobly protects the dignity of the human person, is greater than any violence or injustice. It has always been sought by the church, and always most dear to her. This was the freedom which the apologists claimed with intrepid constancy, which the apologists defended with their writings, and which the martyrs in such numbers consecrated with their blood."

And yet, this freedom still has not been secured for all mankind. In some countries of the world, Jews, Christians—Roman Catholics and other denominations—are still being persecuted for their beliefs. This is true in the Communist countries—and I will later give you some examples of the persecution of Christians in Poland and the Jews and Christians in the Soviet Union. But it is not limited to the Communist countries alone. South Vietnam and the Sudan are among the worst violators of freedom of religion.

Thus, the 20th century, too, has its religious martyrs. But the right against religious persecution should be easier in our time than in the time of the early Christians. They were a minority fighting an uphill battle against often hostile authorities. There are centuries of history between them and us, and during these centuries man has gradually achieved a near consensus, not only on the necessity for respecting fundamental human rights, but also on the need for securing these rights through the instruments of government. The movement which began with 18th-century liberalism—the French declaration of the rights and duties of man, our own Bill of Rights—has, by the mid-20th century, broadened into international action to secure human rights. While the majority of the governments of the world have undertaken to secure and protect the fundamental freedoms of their citizens—and a number of countries have, like ours, incorporated a bill of rights in their constitutions—not all the governments in the world have yet accepted their responsibility. In South Africa, the violation is apartheid, or racial discrimination. In other countries the violation is religious persecution.

Today, however, there is a means of recourse beyond individual governments. There is recourse to the United Nations. When the founders of the United Nations created the world organization at San Francisco in 1945, they drafted a charter which incorporated the aspirations and objectives of the world community. One of these objectives was to achieve international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language, or religion."

In the early years, United Nations action in the human rights field was of a general nature, perhaps out of the necessity of laying the foundations for more specific action later. The Universal Declaration of Human Rights adopted by the General Assembly on December 10, 1948, contained 30 human rights articles, one of which expressed the consensus of the world community on freedom of religion—article 18:

> Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.

The universal declaration became the basis for further United Nations action in the human rights field.

Since 1948, the United Nations has adopted numerous declarations and conventions relating to specific human rights. Most interesting for our purposes has been recent United Nations action on racial discrimination, for United Nations action in this field could and should constitute a precedent for international action against religious persecution. The 18th general assembly, meeting in 1963, adopted a declaration on the

elimination of all forms of racial discrimination. This declaration declared that racial discrimination was an offense to human dignity which "shall be condemned as a denial of the principles of the Charter of the United Nations, as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights, as an obstacle to friendly and peaceful relations among nations and as a fact capable of disturbing peace and security among peoples."

Already the United Nations Security Council has taken the first steps toward implementing the declaration against racial discrimination. Just last week the Council adopted a resolution creating a committee to study the legal and practical possibilities of applying economic sanctions against South Africa to force that country to modify its racial policies. The resolution condemned South Africa's apartheid policies as "contrary to the principles and purposes of the Charter of the United Nations and inconsistent with the provisions of the Universal Declaration of Human Rights as well as South Africa's obligations under the charter."

There is no reason why the United Nations cannot adopt the same position toward countries practicing religious persecution. In fact, in early 1964, a draft declaration on the elimination of all forms of religious intolerance was adopted by the Subcommission on the Prevention of Discrimination and Protection of Minorities of the Human Rights Commission. This draft is similar to the declaration on racial discrimination adopted by last year's General Assembly. The draft must now go to the Human Rights Commission, then to the Economic and Social Council, and thereafter to the General Assembly for final enactment—a process which is expected to take about 2 years—but the breakthrough in the Subcommission is considered a significant advance in United Nations human rights deliberations. The declaration was adopted in the Subcommission by a vote of 12 to 0, with 2 abstentions. Significantly, the two abstentions were cast by the Russian and Polish representatives, culminating intense efforts on their part to block action on the declaration. The Russian and Polish representatives obviously do not want U.N. action in the field of religious discrimination since their governments are among the worst violators of religious freedom.

Encouraging though this U.N. breakthrough on religious freedom may be, the world simply cannot wait another 2 years for international action against religious persecution. The time for the world community to act is now. The basis for international involvement has already been laid in the United Nations Charter and the Universal Declaration of Human Rights. The precedent exists in the United Nations approach toward racial discrimination in South Africa.

Every month we delay—every week, every day, every hour—the persecution of Christians and Jews in certain parts of the world continues and is intensified. In order to impress upon you the seriousness of the problem I shall give you numerous recent examples of the persecution of religious persons and societies in certain countries of the world.

Let us consider first the Soviet Union. The basis of religious persecution in the Soviet Union rests deep in Soviet ideology, for Soviet ideology denies the existence of a Supreme Being. Thus, from the beginning the Soviet state has been embarked on a campaign to eradicate religion from Russian life. Recently, the campaign has been intensified.

The Soviet assault on religion is a dual one: on the one hand, through propaganda and social pressure; and on the other, through administrative-organizational tactics. Massive use is made of antireligious propaganda, since the state controls all communication outlets. Magazines carry articles attacking religious observances and ridiculing believers. Antireligious propaganda is broadcast over radio and television. Christianity and Jewry are denounced in public lectures, and children are taught atheism in the schools. Frequently religious groups are accused of anti-Government activities.

In March 1964, the Communist Party's Central Committee adopted a program for intensifying the atheistic indoctrination of the population. Under this program, atheism will be offered as a field of study in universities and colleges. Indoctrination programs are to be established for party and government officials, teachers, kindergarten staffs, physicians, journalists, and others in the communications fields. But the focus of the new program will be on individual persuasion: Atheist action groups are to be set up in all cities and towns that have religious communities. Members of the action groups are to try to win the trust of believers and convert them from religion.

This is the less tangible but more insidious aspect of religious persecution in the Soviet Union. To hear one's beliefs constantly ridiculed, to stand by while one's children are daily being taught atheism in the classroom, to be aware of atheist action groups in one's midst continually trying to break down the faith of believers—this certainly is religious persecution.

But this is only part of the story in the Soviet Union. The other part—the administrative-organizational tactics of the government—includes: closing of churches, synagogues, monasteries, and seminaries; preventing believers from access to higher education and the more desirable government positions; and direct persecution through arrest and imprisonment.

The closing of churches has been accomplished by such technically legal but devious methods as forbidding priests from serving several parishes at once, and imposing impossible tax burdens. If a parish is without a priest, the church is automatically closed. Again, if a church cannot pay its tax burden—and churches are taxed over 80 percent of their revenue—it is closed. It has been estimated that some 7,500 churches, about 50 percent of all existing churches, have been closed in the last 2 years. By 1962 the number of monasteries in the Soviet Union had been reduced by about half.

It is impossible to document fully the educational and professional discrimination against believers, but such discrimination doubtless exists on a wide scale. Prof. Vladimir S. Tolstoy of the U.S. Naval Academy has commented:

> Holders of good jobs know that avowal of religious belief by attending services may mean the end of their career. Such attendance may bar the high school graduate from entrance to the university or seriously limit his choice of career and achievement of status at the university level.

An especially powerful weapon of persecution is the Government's power of arrest, court trial, and punishment. One of the tactics of the Government is to try to discredit clergymen by summoning and imprisoning them for drunkenness or other criminal acts and by widely publicizing the trial.

The following are a few examples of arrests and imprisonments: First, a Father Scherbatov was sentenced to 3 years' imprisonment for the alleged death of a child during a christening ceremony; second, in 1962 four leading Pentecostalists were imprisoned, 2 for 5 years to be followed by 5 years of exile and two others to lesser terms on charges of breaking up families and seeking to entice young people to join their religious groups; third, also in 1962 five evangelists were found guilty of "parasitic idleness" and banished, probably to Siberia; fourth, a Moscow truckdriver was sentenced to 3 years in prison on charges of forcing his two small children "to pray," to wear crosses, and barring them from the pioneers.

The situation is not much better in Poland. On the surface freedom of worship exists, but the Polish people are finding it more and more difficult to exercise their religious convictions. As in the Soviet Union, the Polish Government is engaged in an active campaign to indoctrinate the people, particularly the youth, in atheistic materialism and to destroy their religious beliefs. A focal point of the government attack is religious education. The government has issued decrees attempting to regulate religious education, one of which prohibited nuns and priests deemed by the education authorities to be engaging in "antistate activity" from teaching catechism classes.

Thus, the Polish Communist attack on religion, like that in the Soviet Union, is a dual attack, through propaganda and through administrative-organizational tactics. Confiscatory taxation, sequestration of church and religious orders' properties, refusal to issue church, school, and other building permits, and interference with the internal affairs of church bodies are some of the methods used by the Polish Government.

Furthermore, any move by the church defying the Polish Communist regime is certain to provoke retaliation. An episcopal letter of June 1962 signed by Cardinal Wyszynski and all 64 bishops of the Polish Roman Catholic Church offers an example. The letter, read in every church in Poland during masses,

called upon all Christians to fast and pray that atheists would return to the faith. As soon as the Government learned of the letter it retaliated by sending military draft notices to a number of seminarians studying for the priesthood.

An intensification of the Polish Communists' campaign against the Roman Catholic Church was reported in April 1964. The methods included arrests, tax prosecutions, and land confiscation. Friction between church and state was highlighted in late May when Cardinal Wyszynski, primate of Poland, drove from Warsaw to Wierzbica, a town whose church had been closed, to conduct mass in front of a house where Catholics had been holding services. The local priest had been jailed twice during the year for undetermined reasons. The reasons for closing the church were also not known.

Another area of religious unrest is South Vietnam, where recently there has been evidence of mistreatment of Roman Catholics by the Buddhist government. In early June, 40,000 to 50,000 Catholics staged a demonstration in Saigon protesting against what they charged was favoritism of the current government toward Buddhists and unfair treatment of Catholics. The demonstrators stated that in central Vietnam priests had been beaten, churches vandalized, and Catholics spat upon in the streets of Hue, leading Buddhist center. The demonstrators asked for a new committee to protect Catholics from persecution and for the freeing of unjustly imprisoned Catholics.

Previously, on May 15 the archbishop of Saigon, Paul Nguyen van Binh, had sent letters to the Vietnamese Government leaders protesting that many Catholics had been unjustly accused and harshly mistreated since the fall of the Diem government on November 1, 1963. The archbishop's letter charged that "a good number of Catholic officials and military men have become victims of calculated actions totally unjustified. Many have been jailed only because they are Catholic." Referring specifically to Maj. Dang Sy, a young Catholic military officer who was later sentenced to life imprisonment by the Revolutionary Tribunal because his troops had fired on Buddhist demonstrators last year, the archbishop charged that he was being judged on political and religious grounds rather than on juridical. The letter observed that films, the radio, and the press were engaged in a campaign to demand Maj. Dan Sy's death and to revive hatred among the people.

During his trial Maj. Dang Sy gave a 30-minute rebuttal item by item of the prosecution's indictment. He stated that he had been held for months in a dark cell where "you could not tell day from night," and that he was offered safety if he would accuse Archbishop Thuc, brother of the late President Diem, of ordering repression of Buddhists. Maj. Dan Sy was reported to have confided to correspondents during the trial that he was guilty of two mistakes: "I am a Catholic and I executed my superior's orders." Some of the Vietnamese newspapers publicly accused the major as guilty even before his trial opened.

Also recently in Vietnam a Chinese priest, Father Hoa, was deprived of the command of his private army and replaced by a regular Vietnamese commander. In the absence of a regular army commander in his sector, Father Hoa had been military leader as well as parish priest. His counterguerrilla tactics had been very successful against the Communists, and thus American officials were concerned at what might happen if his army was broken up. The motives for his removal were unclear, but it is known that Father Hoa was suspect among the anti-Diem forces since he was admired and supported by Diem when Diem was president.

In Europe, in Asia, in Africa too, there are examples of religious persecution. In late February 1964, for example, the Government of the Sudan ordered the deportation of all 300 missionaries, including 272 Roman Catholic and 28 Protestant missionaries, working in the southern part of the country. The deportation move followed reports of uprising in the southern province of Bahr el Ghazal, where a man recently executed as the leader of an abortive revolt was a Catholic-educated son of a tribal chief. Several priests have been arrested on charges of helping terrorist movements in the south.

The expulsion followed similar ones of the last few years. The Christian missionaries have, in fact, been caught in the political crossfire between the Islamic North and restive South in the Sudan. The fact that most of the rebel leaders are Christians has been the chief basis for the government's expulsion of the missionaries. A returning American Presbyterian missionary has expressed the view that the government simply "did not want us foreigners to see what was going on down there."

The Government has also taken other measures, however, to repress the Christian religion in the Sudan. The Government has placed restrictions on the missions and curtailed the functions of the churches. Christian instruction may no longer include proselytizing. The mission in Malakal is an example. In 1960 the Ministry of Education replaced the Christian headmaster of the mission school with a Moslem. According to an American missionary, the headmaster "changed textbooks, burned Bibles, and 'gave our Christian boys Moslem names.'"

In my concern that Christians and Jews are still being persecuted in these areas of the world, I wish to suggest two courses of action:

First, I would suggest the convocation of a "council of the free" among the nations of the world for the express purpose of setting forth the views of the free world concerning religious persecution. It is time for the free world to speak out boldly against religious persecution and to reiterate that faith in human liberties which is the basis of free society.

Secondly, I am introducing before the Congress a concurrent resolution requesting that Congress ask instruction to the U.S. Delegates to the United Nations to call for sanctions against any country practicing religious persecution. If individual governments violate their charter pledge to promote and encourage respect for human rights and fundamental freedoms, then the United Nations must act to protect human rights. If I may again quote from the Papal encyclical "Pacem in Terris":

> It is our earnest wish that the United Nations Organization—in its structure and in its means—may become ever more equal to the magnitude and nobility of its tasks, and that the day may come when every human being will find therein an effective safeguard for the rights which derive directly from his dignity as a person, and which are therefore universal, inviolable, and inalienable right.

As authority for the statements I have made, I cite excerpts from religious and secular publications.

[From the New York Times, June 7, 1964]

SOVIET STEPS UP DRIVE ON RELIGION: NEW RITES SEEK TO SUPPLANT TRADITIONAL OBSERVANCES

Moscow, June 2.—Soviet ideologists are introducing nonreligious spring and harvest festivals and other civil rites in an intensified campaign against the church.

One of the Communist Party's leading propagandists said today in Pravda, the main party paper, that the new system of rituals was being promoted on both ideological and economic grounds.

On the ideological level, he wrote, large sections of the population, including nonbelievers, are still following the practice of baptism, church weddings, and religious funerals.

From the economic point of view, many religious holidays, such as Easter and Trinity Sunday in the Russian Orthodox Church and Bairam festivals in Moslem central Asia, were said to fall in the farm season, distracting peasants from work and causing heavy losses to the national economy.

BEFORE PLANTING, AFTER HARVEST

Instead, the party ideologist, Vladimir I. Stepakov, urged that a new system of Communist festivities be timed before spring planting and after the autumn harvest to prevent the disruption of the agricultural season.

Mr. Stepakov heads the central committee's ideological section for the Russian Republic, which generally sets the tone for reforms in the 14 other Soviet Republics.

Following the Russian example, authorities of cotton-growing Uzbek Republic of central Asia have already decreed the establishment of hammer and sickle festivals before and after the farm season. To promote understanding between town and countryside, spring festivities are to be held in rural areas and autumn festivals in cities.

Mr. Stepakov said that major events in peoples' personal lives should be marked by solemn civil rites designed to wean them away from religious influences.

POLAND ASSAILS CHURCH ANEW

VIENNA, June 4.—Well-informed travelers from Poland report that an intensification of the Polish Communists' campaign against the Roman Catholic Church has been underway since April.

The unpublicized offensive is said to be distinguished by a wide variety of tactics and the fact that it has been broadened to include the harassment of nuns.

It has included arrests, tax prosecutions and land confiscation.

Church-state frictions in Poland were dramatized May 28 when Stefan Cardinal Wyszynski drove about from Warsaw to Wierzbica, near Radom, to conduct mass in

front of a house where Catholics rented a room and turned it into a chapel.

The Wierzbica church had been closed.

The local priest, whose activities led to sealing of the church, has been jailed twice in the last year but was released in time to greet Cardinal Wyszynski, who is Primate of Poland.

The charges on which he had been jailed and the reasons for the closing of the church could not be established.

[From the Brooklyn, N.Y., Tablet, June 11, 1964]

PROTEST FAVORITISM TO VIETNAM BUDDISTS

SAIGON, VIETNAM.—An estimated 40,000 to 50,000 Catholics staged a 3-hour demonstration here during which speakers—all laymen—protested against what they charged was the favoritism being shown by the government of Premier Nguyen Khanh toward Buddhists.

At the same time, the speakers demanded a "just and more effective national policy" against the Vietcong, or Communist insurgents. Other demands called for a new committee to protect Catholics from persecution and for the freeing of unjustly imprisoned Catholics.

PRIESTS BEATEN IN HUE

According to the speakers, insurgent anti-Catholics sentiment is especially strong in central Vietnam. They charged that priests had been beaten there, churches vandalized, and Catholics spat upon in the streets of Hue, leading Buddhist center.

After a parade through the streets, the demonstrators, for the most part orderly and well-disciplined, assembled in the park in front of the Saigon townhall. Many were said to have come 25 miles on foot from a Catholic resettlement area for refugees from Communist North Vietnam which is regarded as a stronghold of antigovernment sentiment.

The demonstrations took place the day after the revolutionary tribunal here had sentenced to life imprisonment a 37-year-old Catholic officer—Major Dang Sy—whose troops fired on Buddhist demonstrators in Hue last year, killing eight persons and setting off the Buddhist campaign which brought about the overthrow of the former government of Catholic President Ngo Dinh Diem.

DEFENSE WITNESS BARRED

Vietnam's Revolutionary Court refused the request of Dang Sy's attorney to call an American military expert to testify on the effects of the MK–3 grenade. The prosecutor, a Vietnamese lieutenant colonel, protested against granting the request and the nine-man court, which includes four Vietnamese officers, upheld his protest. He gave as his reasons: language difficulty (he himself spoke French fluently on June 5 to me, and some English) and, secondly, national prestige. "We have had our own expert," he said.

The defense attorney held the Vietnamese army expert overstated the effect of this grenade.

The defense maintained that the explosion that caused the eight deaths during the Buddhist disturbance was caused by a plastic bomb thrown by the Communist Vietcong. The Vietnamese officer who made an investigation 3 days after the tragedy testified that the damage done, including a hole in a cement pavement, could not have been caused by an MK–3 grenade.

At the trial, Bui van Luong, who was minister of the interior at the time of the incident, gave a detailed account of his findings when the late President Diem sent him to Hue, May 9, 1963, to investigate. He said he found that General Nghiem, army corps commander, had given permission to Maj. Dang Sy to use armed forces to disperse the crowd if the chief of the province agreed. The former minister said that the chief of the province, Nguyen van Dang, told him he had instructed Dang Sy to use force in the emergency and not wait for written orders.

A soldier, who testified that Dang Sy's men were given MK–3 grenades but were told by the major to throw them outside the crowd, said he had been forced earlier to make a declaration against Dang Sy. He had been held for months in prison and ill-treated until he consented to sign an accusation.

The prosecutor, in his summary, alleged that Dang Sy ordered his men to throw grenades without the province chief's authorization and that MK–3 grenades caused the deaths. He asserted that Dang Sy's pride was hurt when the crowd threw stones at him.

ATTEMPTED COERCION

During his trial Maj. Dang Sy declared that police tried to make him accuse Archbishop Ngo dinh Thuc of Hue of ordering repression of Buddhists. Archbishop Thuc is the brother of the late President Ngo dinh Diem.

Dang Sy made this statement twice in the courtroom during his vehement 30-minute rebuttal item by item of the prosecutor's lengthy indictment. He said the trial had a religious basis.

He declared he had been held for months in a dark cell where "you could not tell day from night." During that time government agents tried to make him accuse the archbishop, he asserted. Later that day he added that while he was held prisoner in Saigon as well as Hue, he was offered safety if he would put the blame on the archbishop "or on some other priest" for ordering action against the Buddhists.

The government news service did not report the foregoing statement of the major in its account of the trial.

Maj. Dang Sy, aged 35, was trim in a khaki uniform. He wore four campaign ribbons with a palm leaf for the highest army citation and stars for other citations. He attended the advanced officers' training school at Fort Benning, Ga., in 1959. He is married and has seven children, and the birth of his eighth child is expected one of these days.

Dang Sy's mother, aged over 70, came to court to see him.

During an interval in the trial he told me and another correspondent with an ironic smile that he was guilty of two mistakes: "I am a Catholic and I executed my superior's orders."

Some newspapers published violent condemnation of the accused officer as guilty before and during his trial. One English-language daily, the Saigon Post, on its front page the day the trial began, called him in a two-column headline: "Hue Butcher." Three days before the trial the government news service, Vietnam Press, said Dang Sy was "responsible for the massacre of Buddhists." On June 5, the Ministry of Informations "asks" the press to report the case objectively.

"If they condemn that man, it will be a travesty of justice," an American sergeant, a non-Catholic, said here.

ARCHBISHOP OF SAIGON: SAYS CATHOLICS UNJUSTLY ACCUSED AND MISTREATED

(Many Catholics in South Vietnam "have been unjustly accused and harshly mistreated" since the fall of the Diem government November 1, 1963. That charge was made by Archbishop Paul Nguyen van Binh of Saigon, speaking for all the Vietnamese bishops, in letters to General Duong Van Minh, chief of state, General Nguyen-Khanh, president of the military Revolutionary Committee and the president of the Council of Ministers. A copy of the letter, dated May 15, has just arrived here.)

While acknowledging the ample good will on the part of the authorities of the country as well as the serious efforts made by the Government particularly by Your Excellency, we have established that the 6 months following the coup d'etat in November of 1963 have ended in an extremely grave situation.

It is with much concern for the fate of their countrymen that the bishops of Vietnam realize it is their duty to call attention of the government to the following points:

No one fails to see that the war has actually grown more intense and that in the countryside the situation has become even gloomier. While the population at large lives in anxiety, among the military, the morale has been damaged and among the officials the will to serve has been reduced because of the uncertainty about the future. All that is not to be ignored by the Government.

Truly it is inevitable that a policy which is passive and lacks the spirit of unity, has led the Government to side with some religious faiths and thus to disseminate disunity and hatred among citizens, instead of bringing the whole population behind the leaders of the country in order to fight the enemy and to rebuild the nation.

As for the Catholics in particular, from November 1, 1963, many of them have been unjustly accused and harshly mistreated. A good number of Catholic officials and military men have become victims of calculated actions totally unjustified. Many have been jailed only because they are Catholic.

If until now we Catholics have silently undergone all such humiliations and injustices, it is because we wish to avoid doing harm to the spirit of national unity—quite indispensable in the war against the Communists. Moreover, we have been well aware that the Government is in a situation which is extremely difficult and delicate, and so with much patience we have waited for the Government to take whatever measures are firm and just.

But to continue such a silence now would amount to gravely failing in our duty to the nation.

Revolution in good sense means to put an end to what is evil in order to reconstruct a better present and a better future. Thus a revolution is not to be based upon prejudices against individuals or communities. On the contrary, it has to establish itself on the principles of justice, of unselfishness, and of firmness.

Thus we question what principles and motives have inspired those arrests and imprisonments. One may question whether those citizens who have been arrested and jailed, have been so treated because they have faithfully served the former regime, or worse yet, because they are Catholic.

If those citizens have been accused because they have served the old regime, who would have the courage to be faithful to the present Government? If they are prosecuted because they are Catholic, then human rights have been trampled knowingly and openly.

CASE OF MAJ. DANG SY

Let us speak about the case of Maj. Dang Sy. Everybody knows that he is judged on political and religious ground and not on juridical ground. The proof of this is that for more than a month there has been a campaign by way of films, radio, and the press, to demand his death, and thus to revive hatred among people and to put pressure upon the revolutionary tribunal.

Before May 8, 1963 (and the Government is well aware of this), Maj. Dang Sy, officer of the National Army of Vietnam, has been three times honored, seven times received citations for having courageously fought the Communists and defended the country.

Since he has faithfully carried out his mission on May 8, Dang Sy has never been reproached by his immediate superiors; namely, General of Division Do-Cao-Tri, commandant of the second military region, and General of Division Le-Van-Nghiem, commandant of the first military region.

After November 1, 1963, Maj. Dang Sy was arrested, yet many witnesses who were not tortured and forced to bring false accusations against him, acknowledged that he never committed any fault in fulfilling the mission of reestablishing order (May 8, 1963).

The fact is: To judge Dang Sy is clearly an injustice. And injustice is an enemy of the revolution. Injustice can only serve and make friends with the Communists. It is unthinkable that the Government, while calling communism unlawful, could allow itself to commit an injustice which can bring benefit only to the Communists. It is also unthinkable that the Government could renounce we Catholics, who are most hostile to communism. We believe that to condemn Dang Sy is indirectly to condemn, en bloc, all the Catholics.

PLEA FOR TRUTH AND JUSTICE

Consequently, we urge you to reconsider the case according to truth and justice. Otherwise we bishops and all the Catholics would feel that we have the duty to defend, no matter at what price, truth and justice.

The bishops of Vietnam have made their position clear to the authorities before November 1, 1963. Today we do the same. If we now raise our voice it is because we intend to save the country and to rebuild it.

Please accept, Mr. Chief of State (Mr. Prime Minister, Mr. President of the military revolution committee) expression of our highest regards.

[From the Register, Apr. 5, 1964]

RED DRIVE THROUGH SCHOOLS WORRIES CHURCH: WANT POLISH YOUTHS TO BE MARXIST MEN

WARSAW.—With religion completely banned from the schools and out of the way, officials of the Communist regime in Poland are going all out in their efforts to rewrite Polish history—Communist style.

The Ministry of Culture has inaugurated a new educational program aimed at forming and educating Polish youngsters in the image of the "Soviet man." The program has created deep concern in Catholic and other Christian bodies throughout the country.

Polish children will become familiarized with such "heroes" of the Russian revolution as Felix Dzierzhynsky at the expense of such traditional national heroes as Jan Henryx Dombrowski (1775–1818), whom the Polish national anthem is named after.

(Dzierzhynsky was a Polish nobleman who became the first head of the Soviet secret police under Lenin. He won "Soviet fame" for his cruel and inhuman treatment of all antirevolutionary elements opposing the Bolsheviks.)

The Ministry's plan calls for rearranging the teaching of Polish history and language and related courses in such a way as to bring about, in the shortest possible time, a "new generation" of Poles "fully aware of the great social and other changes" brought about by the October revolution of 1917.

Under the new program, all students are to be "ideologically educated" regarding the "values" of the Communist system of government and "thus better equipped to live in a new social order."

Polish Catholic leaders were said to be discussing what means they can adopt to prevent children from being, in the words of one commentator, "utterly ruined by this new type of Communist education along Soviet lines."

Polish children in the first grade will begin learning the meaning of the "Red flag" of "our people's democracy." In the second and third grades, subjects such as the "Life and Work of Lenin," "The Brotherhood of Polish-Russian Arms," and "The Leadership of Gomulka" will be taught. (Wladyslaw Gomulka is First Secretary of the Polish Communist Party.)

In grades 6 and 7, students will be instructed in "the meaning and beneficial" role of the Polish Communist Party and its programs.

Russian will be taught along with the children's mother tongue. It will be a compulsory subject from the fifth grade on to make Polish children fully acquainted with "the life of the Russian people, their patriotism and devotion to communism" and also with "Russia's economic, cultural, and social achievements."

The "Communist Manifesto" of Marx and Engels will be a required subject in the seventh and higher grades.

[From the Register, Apr. 26, 1964]

REDS GRINDING DOWN ORTHODOXY; SHUT 5,000 CHURCHES SINCE 1962

(By Chris Hernon)

No martyrdom of blood, but "legal" pretexts and ruses to foil every effort by believers to practice their religion caused the closing of 5,000 churches since mid-1962—more than half Russia's houses of worship reported open in 1959.

Such is the condition of Orthodox Christians in the Soviet Union, according to Orthodox theology Prof. Olivier Clement writing in the journal "Reforme."

At Kiev, militia units and gangs of juveniles forced their way through the barricaded doors of St. Andrew's Church and dragged the people off, many of them to lunatic asylums. This is a favorite stratagem, the writer observes.

Probably the most serious stage in the stepped-up war on religion, the professor writes, is the dispatch in April 1962, of a secret circular to all bishops, demanding that no child be admitted to receive the Holy Eucharist.

Some churchmen sought to go along with the new rules in order to save existing institutions.

Others, including Metropolitan Nikolay of Grutitsky, protested. Second ranking prelate in Russian Orthodoxy, he had wished to be at the same time a zealous priest and an ardent Soviet patriot. But after his protest he was dismissed and died, December 1961, in a Moscow hospital in a manner not yet clarified. Three other bishops are still in jail.

A German Catholic newsletter on problems of refugees from the East, besides quoting Professor Olivier, cites P. Werenfried von Straaten's view:

"Those who assert that there has been an essential improvement in the situation of the persecuted church are either misinformed or wilfully misinforming." It is not true that Godless communism wants to make its peace with God and give His church freedom, he declares. The writer also refers to the silent bishops of the East, attending the Ecumenical Council with the Government-provided "secretaries" always at their elbows whenever they went out in public. Their silence is a crushing accusation, he says.

"They implored me to continue preaching untiringly on the sufferings of the persecuted church" he wrote, "saying that their despairing flock would never understand if we failed to shout the truth about communism from the housetops."

In New York, at Fordham University chapel, where the sacred Russian icon of Our Lady of Kazan was enshrined pending its transfer to the 1964 New York World's Fair, Catholics, Orthodox and Anglicans joined in a day-long act of veneration of the Eastern relic.

One of three Eastern Rite Jesuits who concelebrated Mass of the Byzantine liturgy in English in the chapel, Father George A. Maloney, S.J., told a press conference earlier that the day of veneration was planned as a symbol of Christian unity and a protest against the stepped-up campaign of religious persecution in the Soviet Union.

Orthodox theologian Father John Meyendorff of St. Vladimir's theologate, New York, said Soviet persecution of "all religious groups" had been increased steadily since 1959.

[From the Register, May 10, 1964]

SUDANESE GOVERNMENT HAILS CONGOLESE ATTACK ON MISSION

LEOPOLDVILLE, THE CONGO.—The Government of the Sudan, which recently expelled all Christian missionaries from its vast southern territory, has hailed as "brothers" Congolese rebels who besieged a Scandinavian Protestant mission in the east-central part of the Congo.

The Sudan Daily, Government-owned newspaper in the Sudanese capital of Khartoum, saluted the assault on the mission in Kivu by declaring:

"Our Congolese brothers * * * showed their discontent with the missions in their efforts to expel missionaries. They have discovered, as we have done before, that those missionaries are not preaching the word of God, but are missionaries of subversion and sedition."

It added: "The Congolese brothers in Kivu have exercised their right to self-rule and freedom in the most courageous and effective manner. They have shown the most forceful form of protest to the subversion of the Scandinavian mission."

[From the Denver (Colo.) Register, May 24, 1964]

HE NOTES PERSECUTION: SOVIET ANTI-SEMITISM SORROW TO POPE PAUL

WASHINGTON, D.C.—The Pope, in what is believed the first public pronouncement on the subject, has taken note of Soviet persecution of the Jews and made known his concern.

The Pope's reaction came April 14 in a 15-minute audience with Daniel Neal Heller, national commander of the Jewish War Veterans of the United States, and Abraham Kraditor, past national commander. The Jewish War Veterans revealed the incident in a release from their national headquarters here.

According to Mr. Heller, the Pope made known his disapproval of such discrimination as well as his deep feeling for, and understanding of, the predicament of the Soviet Jews. "He made it known to us," Mr. Heller said, "of his desire to promote through a spiritual call to conscience, the alleviation of their problems. 'These poor, poor people,' exclaimed the Pope, 'we must all pray very, very hard for them. I will personally pray for them.' "

The Jewish War Veterans characterized the historic meeting "as one of the most significant face-to-face meetings" involving the leaders of an American Jewish organization and a pontiff of the Catholic Church.

The new national commander, on taking office in August, had pledged to seek an audience with Pope Paul VI specifically to discuss the plight of Soviet Jews.

In recent months, reports emanating from the Soviet Union and elsewhere have talked about anti-Jewish articles appearing in Soviet journals; of the closing of many synagogues in the Soviet Union; of the failure to consecrate burial grounds and of a general campaign to end Jewish learning by depriving Jews of indispensable tools, such as books and other religious materials.

CRACKING THE WHIP—POLITICAL STYLE

Mr. FRELINGHUYSEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FRELINGHUYSEN. Mr. Speaker, the accounts of President Johnson's press conference yesterday make interesting reading. He obviously is cracking the whip over congressional leaders, particularly with respect to some 30 bills which he considers important. Like Members of Congress, Mr. Johnson realizes the Presidential conventions are imminent, and he feels attention should be given to certain "must" bills prior to adjournment.

Mr. Johnson has requested that Republicans in Congress permit votes on as many of these bills as possible. One of these bills is the so-called Powell-Landrum poverty package, H.R. 11377. This bill, Mr. Johnson declared, was delayed "time and again" in the House Committee on Education and Labor. It was finally reported by that committee, he added, by "strictly a party vote, which we regretted very much."

Mr. Speaker, has the President inquired why this was a party line vote? I wonder why he only now expresses regret that all Democrats supported this poverty package, and all Republicans opposed it? Is he implying that Republicans have delayed action in committee? Does he really feel the Democrats can justify a holier-than-thou approach with respect to this legislation?

The fact is, Mr. Speaker, that the committee gave far too little consideration to H.R. 11377, not too much. Had they wanted to, the Republicans could not have appreciably delayed the schedule established by the Democratic majority. Indeed, on numerous occasions Republicans were ruthlessly denied an adequate opportunity to question witnesses. Many witnesses were interrupted before they could even answer a specific question, and others who were scheduled were abruptly told they would have no chance to testify.

Does the President know, I wonder, that Democrats argued for 2 weeks in rump sessions over just what changes should be made in the President's recommendations, to make it palatable to them? Does he know, Mr. Speaker, that Republicans protested against this disruption of the normal committee processes, and the delay which these internal disputes made necessary?

Mr. Speaker, has the President been informed as to why this bill was reported on a partisan basis? For instance, does he know that no amendment of any significance offered by any Republican was accepted? Does he know, or care, that none of the constructive suggestions which were made by members of the minority was accepted, even though they were offered in an honest effort to strengthen carelessly written, and poorly conceived, legislation?

We Republicans on the committee have deplored the lack of interest which the Democrats showed toward our reservations, criticism, and suggestions. Hitherto, all members on that committee have often worked as reasonable men and women to develop reasonable compromises, but with respect to this poverty package there has been a continuing and deliberate effort to sabotage such efforts by Republicans.

At his press conference President Johnson also mentioned that several Republicans plan to testify on H.R. 11377 before the House Rules Committee. Very generously he declared that "we want to give them a chance to testify." How thoughtful of the President to allow Republicans this courtesy. But I wonder, Mr. Speaker, whether such a comment does not betray impatience with Republicans for necessitating still further delay in getting this bill for a vote? Does the President not realize that Democrats also want to testify? Has he not heard that a single Democratic proponent of the bill took 3 days of the Rules Committee's time in attempting to explain, and defend, its provisions? Has he not been informed that the time that single Democratic witness required was twice as long as he felt that the whole House should be allowed to debate the merits—and the obvious weaknesses—of the bill? Does he realize that Democratic proponents contend that 4 minutes would be enough for each member of the House Committee of Education and Labor to discuss this bill on the floor, with no time at all available for other members who may wish to express their views?

Obviously, the distance between the White House and Capitol Hill remains considerable, even in these days of improved communications. It is somewhat surprising, however, that one with long legislative experience himself should misread so completely what is occurring here on Capitol Hill.

COMMISSAR POSTMASTER

Mr. JOHANSEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. JOHANSEN. Mr. Speaker, welcome a new official figure on the American scene—commissar postmaster.

Today in a statement being personally delivered by Postmaster General Gronouski at a Postmasters' Conference in Baltimore, the postmasters of this Nation are being ordered to become active all-out propagandists for so-called equal employment opportunity.

I include at this point the relevant portion of Postmaster General Gronouski's statement released today by the Post Office Department:

> In the area of recruitment the postmaster is expected to take a more active part in community affairs. As the representative, and often the principal spokesman for Government in his locale, we expect him to state clearly the policy of the Government with regard to equal employment opportunity. He is totally responsible for informing employees well in advance of examinations for establishing new appointment registers. A great part of this task is in contacting minority group organizations so that they can encourage their members to participate.
>
> Postmasters will be expected to attend conferences and make themselves available for speaking engagements at functions relating to equal employment opportunity.
>
> Get active in your community, state the policy of the Government on equal employment opportunity and its relationship to the Post Office Department, and while you are doing that you will be sowing seeds of understanding, which are basic to the solution of our Nation's problem.

The nub of this directive can be summed up in these two statements by the Postmaster General:

First. The postmaster is "often the principal spokesman for Government in his locale." I had naively supposed that that role was held by the representative in Congress.

Second. Postmasters are directed to "get active" in their communities and to "state the policies of the Government on equal employment opportunity."

I had supposed naively that the business of the postmasters was to get the mail delivered. I have assumed naively that postmasters would of course obey, enforce, and implement the law of the land in the performance of their official duties.

I suggest that the Postmaster General's directive will require postmasters to go far beyond this responsibility and to assume the role of public advocates and educators in fields totally unrelated to their official duties.

I am certain that the overwhelming majority of the postmasters of the United States have no desire to become commissars for the Postmaster General.

REPUBLICANS HIDING BEHIND "OR" ON VIETNAM

Mr. BENNETT of Florida. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BENNETT of Florida. Mr. Speaker, now, right now is the time for each major Republican candidate for President to speak out on what he proposes for Vietnam. Our country has been barraged with statements that we should "get in or get out" of Vietnam. The President's policy of trying to assist the local government to victory, maintaining the war as basically their war, has been derided as a foolish policy. How many times have we read that first this Republican candidate and then that one says, "It is time to get in or get out."

Well, now is the time for these presidential candidates to speak out as they offer themselves for the Republican nomination. Which do they recommend? Do they recommend that we get in or that we get out? The American people are entitled to know. A large segment of the American people, the Republican Party

will choose one of them in the next few weeks as their standard bearer. It is therefore their duty to state their decision instead of taking the cowardly position of hiding behind that little word "or."

If they think we should get in with American troops and make the war our war in every respect, should not they have the courage to so so? If so, how many divisions do they recommend be sent and when? Or, if they feel that we should get out, would not it be better to say so now so the people would know what the choice is between the candidates?

Personally, I have always felt that an effort should be made to eliminate partisanship in international affairs, and I am sorry that the Republican candidates have injected politics into the very serious situation in Vietnam, but they have done so and have actually made it their chief campaign vehicle so far. Since they have done so and since they repeatedly say "get in or get out," the time has now come for them to say which they prefer so the American people will have a clear choice.

It is obvious from things that have been said by leaders in the administration that the policy of the present administration is to win in Vietnam but to attempt first to do it by assisting the local government rather than making the war our war. If that fails every indication is that our country will go in with American troops and make the war our war in every respect. Personally, as a Member of Congress who has been a member of the House Armed Services Committee for many years, I think that for the time being it makes sense to pursue the current policy, but the sole purpose of my speech today is to challenge the candidates for the presidential nomination in the Republican Party and ask them to cease hiding behind that little word "or" and say precisely what they mean.

INDIVIDUAL RESPONSIBILITY—THE KEYSTONE OF FREEDOM

Mr. RIEHLMAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RIEHLMAN. Mr. Speaker, tomorrow I will welcome to the Capital two youngsters from Syracuse, N.Y., who won first prizes in a teen-theme essay contest which I recently sponsored.

They are Miss Karen E. Corso and Mr. C. Michael Haskins who wrote on the subject of "Individual Responsibility—the Keystone of Freedom."

Sponsoring this contest is one of the outstanding privileges I have had in public life. I have been provided a rare insight into the thinking of our youngsters today, not only through the winning essay but from the more than 500 others submitted.

I am looking forward to showing these two youngsters around their Capitol tomorrow and I hope they will receive as much inspiration from the tour as I did from their essays.

I am inserting the two essays at this point. They speak eloquently for the writers:

MR. HASKINS' ESSAY

To me, individual responsibility means the duty of each and every one of us to accept our own responsibility for good citizenship and good government. It means that we must keep ourselves well informed on the issues of the day and those of the not too distant past, for often today's issues are only the result of yesterday's unsolved or partly solved problems. This knowledge will help us form valid, intelligent opinions, and a better understanding of the issues involved. We must, if we think it necessary, make our elected representatives aware of our opinions about important legislation. We must never adopt the attitude of "let someone else do it."

We must be very careful not to deny any of our fellow citizens, no matter what their race, creed, or color, the same rights and privileges of citizenship which we expect for ourselves. No injustice, however slight, whether or not we are directly affected, should be beneath our notice.

We should feel free to criticize our Government and our legislative processes but it must be constructive, never criticism for its own sake. We have all heard presumably loyal citizens berating their Government in a way that would bring joy to the Kremlin. Obviously, we should be law-abiding citizens for good laws are the very foundation of our society. If we do not approve of certain laws we should seek to have them changed by legal means, not by defiance.

If we personally do nothing to change things we believe are wrong, if we take no part in electing the people who represent us, if we remain indifferent about our duties as citizens and no not exercise our right to vote, we are disfranchising ourselves and forsaking the greatest opportunities American democracy can offer.

I believe it is the individual responsibility of every one of us to actively participate in local, State, and national affairs for only by doing so are we performing our full duty as American citizens. This does not mean that we should all aspire to political careers by any means; it does mean that we should, for example, attend meetings and lectures which can help us to keep well informed.

I also feel very strongly that it is our individual responsibility to form our own opinions based on clear, informed thinking. We are surrounded by columnists and commentators, many of them well informed though too often biased, who endeavor to mold our opinions. Certainly we should evaluate their views but by all means let our opinions be our own. We must learn to think for ourselves.

Freedom is our birthright but we cannot expected to simply take it for granted without putting forth our best efforts to retain it. Millions have given their lives in the fight for freedom. The least we can do is to dedicate ourselves to preserving what they have won. That, I think, is our greatest individual responsibility. Let's not shirk it.

MISS CORSO'S ESSAY

Individual responsibility is the cornerstone of liberty and the keystone of our Nation's freedom. Responsibility is accepted by an individual in varying degrees—depending on his attitude. Accepting responsibility is the badge of leadership.

Our present society demands education and knowledge that must start early in life. Initiative is rewarded. In school, the pupil learns independent thinking and self-determination. He talks responsibility; he thinks responsibility. He does not really know responsibility—but he feels it.

Responsibility is loyalty to people, church, and State. It is an attitude. It is a respect for your neighbor's rights—and it is self-respect. It is an awe of the power of God. It is studying and putting forth one's best efforts. Responsibility is a willingness to work.

Responsibility is the urge to accomplish and to reach an objective. It is accepting challenge. It defines morality and doing what is right. It is setting example by your deeds. Responsibility whets the imagination.

Responsibility is a fierce defense of liberty and freedom. It is pride in heritage and in our history. Responsibility is simply but eloquently expressed by Lincoln that "this Nation under God shall have a new birth of freedom and that government of the people, by the people and for the people shall not perish from the earth."

Preparation for responsibility must be stepped up to strengthen our youth on a person-by-person basis. Instead of a lot of headshaking, our parents and educators need to take stock of themselves. They need responsibility of their own to instill inspiration and responsibility in this Nation's children. Theirs is a profound responsibility.

Let us share a variety of viewpoints and strive with impatience to improve ourselves.

Let us restore God to his rightful place in the constitution of our great Nation.

Let us abolish suspicion, discrimination and intolerance; let us build character in person and in Nation. Let this be our responsibility.

America has been blessed with abundance and generosity to share. In the barren troubled world in which man lives, our country stands out as an oasis—and a symbol.

America was spawned in a desire for freedom and the right of self-government. Americans are born as freemen with a free will. Our leaders are chosen to accept responsibilities and make our Nation's decisions. This defines a free government. Let us always preserve it and may God always bless our land.

The young people of today will be measured as the men of tomorrow. The roots of our Nation run deeply imbedded in liberty and we have defended it with all of our energy. Youth must be responsible for the destiny of our Nation in a complex tomorrow. Our new citizens will go on trial—the eyes of the world will be the jury—and history will record the verdict.

ONLY HALF OF IMPORTED HARVEST CREW AT WORK

Mr. HARVEY of Michigan. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. TALCOTT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. TALCOTT. Mr. Speaker, I am trying to keep my colleagues and the American consumer, taxpayer, and tax user informed about the problem of obtaining adequate farm labor to harvest crops which supply the food we eat.

To replace the bracero program, farmers, and labor organizations are desperately trying every suggestion proposed.

Someone suggested to the California farmers that they go to the Deep South to recruit farm labor. The Garin Co., a large grower, did just this. After 30 days, the Salinas Californian newspa-

per made the following objective report in the May 29, 1964, issue:

Half of the crew of Mississippi Negroes imported a month ago by the Garin Co. to harvest Salinas Valley lettuce isn't on the job any more.

Of the 46 men recruited by the company in the Mississippi delta towns of Meridian, Natchez, Jackson, and Hazelhurst, just 22 went to work this morning.

There are now not enough Mississippians with the company to form an efficient lettuce harvesting crew. Those remaining were integrated Monday with two bracero crews—of the sort they and other American domestic workers are supposed to replace after December 31, when the Mexican national program expires.

WHAT HAPPENED?

What happened to the members of the experimental crew who gave up the labor of lettuce harvesting?

Garin Co. records show this: One man was sent back, sick, to Mississippi; four reportedly got homesick and returned to Mississippi of their own volition, and four were fired because they didn't work much. No one knows just exactly what's become of the remaining 14, although some of them are said to have found other jobs in the Salinas area that either pay more than $1.05 an hour, or are easier, or both.

Aggregate man-hours of work available from the Mississippians from April 28 through May 21 was 6,721. Man-hours absent total was 1,097. Nevertheless, John P. McCarthy, of the Garin Co., who helped recruit the experimental crew, says "we haven't given up on it yet."

McCarthy told the Californian that "the fellows remaining on the crew seem to be working very well" and that "competition between them and the braceros" has stepped up their productiveness. Besides, the bracero crews are experienced and working on a piece rate, which brings the individual worker substantially more than $1.05 an hour. (The all-Negro crew "made" the piece rate—and earnings over and above the hourly guarantee—just once on the basis of its production.)

Three of the Mississippians—Roosevelt Howard and William Smith, of Natchez, and James Skinner, of Jackson—haven't missed an hour of work. A fourth man who was in the perfect attendance category, Charlie Smith, of Meridian, quit work this morning.

McCarthy says that "we were under the impression that all of the men were experienced field hands" when they were recruited. This didn't happen to be the case. But most of the 22 men remaining are bona fide agricultural workers.

Since the Mississippians were integrated with the two bracero crews, there have been very few absences from work among them, McCarthy says. He believes that they may have shaken down into a stable work force. But the company—while it is considering worker recruitment from Texas—isn't rushing back to Mississippi for more men. "We'll take a long, close look at the situation before we decide to recruit (there) any more," McCarthy says.

Absenteeism among the Mississippi crew began on May 5 and reached a high point on May 21, when just 11 men reported for work.

NOT CUTTING, PACKING

Garin field foreman Joe Brooks said this morning that the Mississippians are being used as carton spray and pad men, wind rowers and loaders in the fields. The cutting and packing of lettuce is generally being done by braceros, of which the company now has 271 out of a total work force of 325.

The Garin Co. screened some 159 workers in Mississippi before selecting the 46 men it bussed to California at a cost of $2,874.40. A bonus arrangement between the company and the new men is that each one of the workers who stays on the job for 3 months will get a free bus trip back home. The company is deducting $5 a week from the checks of the men to reimburse it for transportation costs. A charge of $1.75 a day is assessed each man for room and board at the company's McFadden road camp, where the Mississippians are housed with 103 braceros.

McCarthy conceded that the experimental crew members have been averaging less than $50 a week take-home pay thus far. But with the Valley's heavy lettuce harvesting now getting underway, he says that they'll be earning more than $50 a week.

Mr. Speaker, the $50 is a net figure—after deducting $5 per week for return transportation and $1.75 per day for board and room.

When the Mississippians first arrived at the labor camp, the Garin Co. was laying out special southern meals for them. Recently, however, the new men started getting the same food as the braceros. McCarthy says that they have balked at substituting tortillas for bread; so they're going to get bread from now on.

FAILURE OF GARIN FARM LABOR RECRUITMENT EXPERIMENT

Mr. HARVEY of Michigan. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. TALCOTT] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. TALCOTT. Mr. Speaker, yesterday I reported for the benefit of my colleagues, who are concerned about the harvesting of fresh fruit and vegetable crops, about the Garin Co. experiment in recruiting farm labor from faraway Mississippi.

A full report of the experiment cannot be given yet. The experiment is not concluded. A few of the workers which were recruited at great cost, careful planning and wide cooperation are still working. Most quit shortly after arrival in California. None could perform the stoop labor well. The company lost heavily. The State of California will be required to increase its welfare payments. Some union men will lose their jobs. The dislocated workers are disillusioned and disappointed. Crops will spoil in the fields.

A spokesman for the Council of California Growers had the following to say to the Salinas Californian newspaper on May 29, 1964:

The questionable success of the Garin Co.'s experiment with imported field labor raises some disturbing questions.

The dwindling of Garin's crew of Mississippians by more than half in just a month at work in the Salinas Valley is symptomatic of "a potentially dangerous situation," Tom Ellick, of the council, said.

MAKES PEOPLE THINK

"This should at least make people think about the problems involved should agriculture find it necessary to go out of the State on a massive recruiting program to pockets of poverty," Ellick said in a telephone interview.

The Council of California Growers is the public relations arm of California agriculture.

Speaking of the Garin crew, Ellick said that "here are underprivileged people who have been thoroughly screened by the prospective employer and by representatives of the Federal Government and the agencies of two States. They signed up voluntarily to do farm labor under specific wages and specific conditions in a specified work agreement. Yet, after they had been in the Salinas Valley a matter of just 2 weeks, they began to follow what is now an almost historic migration from farm work to other types of work."

WELFARE PROBLEMS

Ellick said that the rapid movement of workers from rural work to job seeking in urban areas has historically meant skyrocketing welfare costs. "It seems to us that some real serious thought should be given to what's going to happen if agriculture has to recruit on a large scale out of the State."

Ellick said that the swift movement of the Mississippians out of California's farm labor market raises the question: "How many American workers will it take to replace the jobs now held by some 60,000 braceros at the peak of the harvest season?" He said he believes that it may take "three, four, five times as many people—and they won't go back where they came from, either."

FACTS OF LIFE

"The facts of life," Ellick said, "do not substantiate the contention of the AFL–CIO that California has enough willing, unemployed workers to do the job for agriculture. * * * It's about time the State administration and the department of employment and other powers that be found out what it would take to get the unemployed back on the rolls—and what wages they'd work at.

"Agriculture has to know, and it has to know damn soon," he said. "We need some straight answers."

Mr. Speaker, no opponents of the bracero program has had anything to say about this experiment which failed.

GUANTANAMO NAVAL BASE: GUARDIAN OF PANAMA CANAL APPROACHES

Mr. HARVEY of Michigan. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. HARSHA] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HARSHA. Mr. Speaker, in many statements in the Congress concerning the problems of the Caribbean, especially those by my distinguished and scholarly colleague, the gentleman from Pennsylvania [Mr. FLOOD], the importance of the U.S. naval base at Guantanamo to the security of the Western Hemisphere has been repeatedly emphasized.

Dramatized by the decision of Red Cuba to stop the fresh water supply to this naval base from its source on the Yateras River outside the limits of the base, Guantanamo has become increasingly recognized for its roles in both war and peace. In war, this strategically located base, on the northern flank of the Atlantic approaches to the Panama Canal, can control shipping routes; in peace, its commodious protected anchorage in Guantanamo Bay close to deep water and its favorable climate make it

the best fleet training facility south of the Chesapeake area.

It was, therefore, gratifying to read in the May 1964 newsletter of the Chief of Information, Department of the Navy, an authoritative summary of approved naval policies concerning the maintenance and operation of the naval base at Guantanamo.

In order that the Nation and the Congress may be more widely informed, I quote the indicated Navy Informational Policy Summary—NIPS–6—and commend it for study by all concerned with problems of hemispheric defense:

[Chinfo Newsletter, May 1964]

NAVY INFORMATIONAL POLICY—SUMMARIES

GUANTANAMO NAVAL BASE

The U.S. naval base at Guantanamo is very important to the security of the United States and the Western Hemisphere. The continuing policy of the United States is to retain the base indefinitely in accordance with the provisions of the treaty of 1934. The most recent confirmation of this long-standing policy was in a Pentagon news briefing by the Secretary of Defense on March 5, 1964. Prior to that, the Secretary of State had said, "The basic fact is that we are in Guantanamo and will remain there for the foreseeable future." These policy statements followed the Castro regime's decision to shut off Guantanamo's fresh water supply on February 6, 1964, and U.S. Navy's subsequent determination to provide its own source of fresh water, which is now the fact and will remain so.

Background

Guantanamo, the United States oldest oversea naval base, was acquired through a lease agreement with Cuba in 1903. The 1903 agreement was subsequently confirmed by a treaty of relations in 1934. In 1959, the Castro regime stated, "All international commitments and agreements in force will be fulfilled."

Guantanamo is a bulwark in the base complex of the United States. It includes an excellent harbor, docking and ship repair facilities, and two airfields including one field for jet aircraft with necessary shops and hangars. The base includes a total of 1,400 buildings and represents a total investment of approximately $76 million.

Wartime role

Guantanamo's wartime role is the support of combatant naval forces, operating in the Atlantic, and defending the Caribbean sea areas. Strategically, the base provides a link in the island chain stretching from Key West to Trinidad. From this base, the southern approaches to the United States can be controlled; this includes the Windward Passage on Cuba's eastern tip; the Straits of Florida between Puerto Rico and Cuba; and the Anegada Passage near Puerto Rico and the Virgin Islands. All these passages are focal points of shipping and can be controlled from Guantanamo. The base is also essential to the defense of the Panama Canal. Its most important wartime role would be its support of antisubmarine forces in the Caribbean and the Atlantic, thereby contributing to the safety of free world shipping. Forces based in Guantanamo can also respond promptly to contingencies and lend assistance when natural disasters occur in the area.

Peacetime role

Guantanamo's peacetime role is its support of essential fleet operational training. The advantages of Guantanamo as a fleet training base are many. The harbor is deep, large, and well protected from the weather. The anchorages are only a few hundred yards from deep and open water, which eliminates wasted time steaming to and from the operating areas. The excellent weather permits maximum use of available training time, even during the winter season. Targets for air weapons training are within sight of the airfield, again eliminating time to and from the training area. The aerial gunnery range is the only one available to the Atlantic Fleet which is unhampered by commercial air traffic.

Guantanamo has been used since 1904 to provide "shakedown" and refresher training for Atlantic Fleet air units and ships of all classes. Guantanamo-based fleet training group instructors, who are experts in their specialties, conduct what amounts to an intensive period of on-the-job training whereby the green crews of newly commissioned or overhauled ships are brought up to acceptable fleet standards. Guantanamo makes it possible to expedite training, thus freeing the maximum number of ships and squadrons to meet the U.S. Navy's farflung commitments of the Atlantic Fleet. It is by far the Navy's best facility for refresher and underway training.

No adequate alternatives

Guantanamo offers the best harbor-base complex south of Chesapeake Bay. It could provide anchorage to a major portion of Atlantic Fleet's combatant tonnage. San Juan, P.R., is comparatively small. Roosevelt Roads is protected by a breakwater. Guantanamo remains an important element of hemisphere security.

DALLAS: ITS ASSETS

Mr. HARVEY of Michigan. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. ALGER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. ALGER. Mr. Speaker, there are still those misguided and malicious persons who continue to depreciate the great city of Dallas and its people. There are those who, for political reasons and some for baser reasons continue to spread falsehoods and slander against my community.

Dallas, in the greatness of its heart, can live with the libel. We regret the evil intent behind some of the attacks, but we continue to move ahead in the best American tradition, building our community, making a better place for all our people to live, and contributing what inspiration and effort we can to a stronger, healthier, happier, more prosperous America.

To all our critics, as well as those who are friends of Dallas, we invite you to come to see us, share with us our faith in the American system, join with us in our constant endeavor to preserve this great Nation and the freedom it guarantees to all men.

As a part of these remarks I would like to include a speech about Dallas delivered by Mr. James M. Collins at Southern Methodist University in Dallas on April 28, 1964.

Mr. Collins, I am proud to say, is one of the fine people of Dallas whom I have the honor and the privilege to represent in Congress. He is president of Fidelity Union Life Insurance Co. and an outstanding civic leader. He is typical of the unselfish, forward-looking kind of individual Dallas produces.

I commend your attention to Mr. Collins' appraisal of Dallas, its aspirations, its goals, its achievements:

DALLAS IS A GOOD BUY IN TODAY'S MARKET

(A speech at Southern Methodist University on April 28, 1964, by James M. Collins, president of Fidelity Union Life Insurance Co.)

As a result of Dallas greatest tragedy, the death of our beloved President Kennedy, our city has been analyzed, criticized, and vilified.

This all began after the greatest welcome that any man had ever received in the history of Dallas. He was assassinated by a stranger of our city, a man living under an assumed name, who had been here only 30 days. He was a Communist-Marxist who had lived in Russia for 3 years. But Oswald chose Dallas as the place for his infamous crime.

Since that dark day, many newspapers and magazines have written about Dallas. To reflect their attitude, let us cite specific examples:

In a recent issue of the NATO Letter, Prof. H. Wentworth Eldredge referred to Dallas and Texas as "a semicivilized part of America * * * with its lunatic fringe of hatemongers."

Look summed up the estimate of Dallas with a quotation from an unnamed cab driver, "Dallas used to be a nice town, but now its got to where everybody's scared of everybody else or hates everybody."

Those of us who have lived in the city all of our lives have been shocked at the charges of hate.

Who is it that we hate? We do not hate the Negroes. The president of the northern Negro Baptists visited Dallas just a few weeks prior to the President's trip. He stated that Dallas had done more than any other large city in the country to help the progress and development of Negroes and that Dallas should be used as a model by other cities.

As for other minority groups, consider our Jewish citizens, who make up only 3 percent of the population. Among this 3 percent are many of our hardest working and most dedicated civic leaders. It is noteworthy that in 4 of the past 9 years Dallas has chosen a Jew as its outstanding citizen—Stanley Marcus (merchant), Fred Florence (banker), Jerome Crossman (oil), and Julius Schepps (wholesale liquor distributor). Many of the most loyal and enthusiastic builders of Dallas are our Jewish friends.

Dallas is located on a flat piece of land. Its dismal picture was summed up by Life magazine: "Dallas had no natural resources and has none today. No precious metals, no sulfur, no natural gas, or oil lie beneath or near the city. The summer's heat is almost beyond enduring. The black-land prairie, once good for growing wheat or cotton, is now exhausted. And this dry land blows up such prodigious duststorms that one might as well comb his hair with a plow."

Dallas is a city with nothing but manpower, and a philosophy of self-reliance. Life quoted an editorial from the Dallas News which was said to reflect the Dallas point of view: "When our forefathers stepped on the west bank of the Mississippi and headed west to carve an empire, did they look back over their shoulders to the National Government for welfare and help? No, with an ax and a Bible and a wife, the pioneer did it himself."

Dallas started as a log cabin near a small river, about 100 years ago. There was a need to ford the river and this was a good spot. As the community grew the settlers saw that they needed more than a river ford, so they made arrangements for the East-West railroad to build its tracks through the vil-

lage. With one railroad the citizens went to work and secured a crossing North-South railroad and Dallas became a crossroads town.

The railroads needed freight, and since buffalo skins were a big freight item, the people went to work and made Dallas the destination of buffalo traders from the West. Dallas actually became the buffalo hide center of the world.

When the buffaloes were killed off and cattle took their place on the prairie, the city changed quickly to cutting leather—the making of saddles, bridles, and harnesses—and the new local industry became a tremendous factor in the national market for horse-and-buggy goods.

When Henry Ford and mechanized farm equipment swept the country, Dallas went through another transition; finance and cotton trading. Cotton was brought and sold for the world market, and the city became the cotton-trading center of the world. In 1932, Washington established fixed minimum prices on cotton which eliminated a large amount of the trading.

Again Dallas moved with the changing times and actively entered the oil business by inducing oil producers in Arkansas, Oklahoma, Louisiana, and east Texas to come to Dallas to make their deals, arrange their financing and centralize their offices here.

In recent years world oil production has necessitated changes within the industry and Dallas has expanded to other industries and moved further into electronics, finance and insurance.

Dallas has been criticized for its so-called oligarchy but this is Dallas' greatest strength—instead of one leader, we have hundreds. Leadership and management is any organization's greatest asset. As one business leader said: "There is no good business, just good management."

The other day I heard a stockbroker evaluate stocks. He analyzed the location of the plants, growth tendencies in the industry, price earnings ratio. But, he said the important factor about a company is that it has good management, that it has good leadership. This is true of a church, or a school, or of a business. Good leadership is your greatest asset.

With our abundance of dynamic leaders, Dallas has one of the most diversified economies in the United States. We have the finest market merchandising facilities in the Nation. Dallas is much in demand as a convention center. Dallas is third in the Nation in number and importance of its fire and life insurance companies.

The city's varied interests are reflected in a rough breakdown of the payrolls:

	Dallas payroll	*Percent*
Manufacturing		25
Wholesale		13
Retail		13
Services		12
Education and government		10
Finances and insurance		8
Construction		7
Transportation (64 carriers)		6
Communications and utilities		3
Oil and gas		3

Let us look at the personality of Dallas. It is a friendly city that offers much and receives even more from its citizens.

1. Friendliness is Dallas' natural manner. My friend Chuck Conklin, of Alcoa, said that when he moved to Dallas the thing that impressed him was the interest of his neighbors and the welcome he received in becoming a part of the city.

We do not have as many millionaires as New York, Boston, Philadelphia, and Houston; but the difference is that in Dallas we call them by their first names.

2. Sound value is basic in Dallas. The cost of living is less in Dallas than any major metropolitan city in the country according to the Bureau of Labor Statistics figures, and "FHA homes—1960," shows that when you buy a home you get a better value per dollar in Dallas than anywhere in the United States.

3. Spiritually either "spirit of pride" or "religious spirit"—Dallas has it. It is the home of the four largest churches in the world of their denomination: Baptist, Methodist, Presbyterian, and Church of Christ. From pride, we are proud of our heritage and the future we are trying to make for our children.

4. Beauty stems from pride. Even on a quick visit to Dallas the visitor is pleased with the beauty of the new skyscrapers, the homes, the elegance of private gardens and above all, the beauty and charm of our ladies. Dallas women are frequently referred to as the best dressed women in the world.

5. Broadmindedness is a firm attribute of the city. Dallas has been described many times as a town of nondrinking, abstaining people. But last year we chose for our outstanding citizen Julius Schepps, who is a liquor distributor.

6. Solid middle class gives stability to Dallas. We have a prosperous middle class; people enjoy living in our community. Census figures show Dallas has more homes with air conditioners and television sets per capita than elsewhere in the United States. But probably the best yardstick of prosperity is the two-car family. Dallas has more two-car families per capita than anywhere in the world. We have three times as many as San Francisco and four times as many as Boston.

7. Education means progress for Dallas. It has been said that businessmen set the pattern for Dallas. If this is correct, then education has top priority in our community: one-third of the directors in the chamber of commerce are assigned to the seven active committees concerned with education.

Last week we were all proud to note that, among the top students in high schools, Dallas stood 5th in the Nation in merit scholars, whereas we are only 13th in population. Three years ago the leading scholars at both West Point and Annapolis were graduates of a Dallas high school.

In Dallas, over half of the teachers have master's degrees. Under our accelerated educational program, Dallas now has over 1,000 students in advanced courses.

Our schools excel and have kept up with the growth of Dallas. We have built more schools and more classrooms than any city in the country—103 new buildings and 68 refurbished. We have also been adding neighborhood libraries and physical education facilities for a broader educational program.

8. Cooperation is the key in Dallas, where everyone works together. Many cities are reluctant to submit a bond issue and do it only every 10 years, hoping that they can squeeze by. In Dallas, city improvements are moving rapidly all of the time; and since World War II we have had a bond issue every 2 or 3 years. Just last month a bond issue on civic improvements came and we favored it 5 to 1.

9. Good local government reflects the integrity of the Dallas people. I recall so well a statement made by a vice president of General Electric who said, "The true reflection of a community is to see the character of elected public officials." For the last 30 years we have looked to honest and capable business leaders from throughout the city to enter city politics and serve on the Dallas City Council. Partisan party politics is put aside where the city is involved. Of the last four mayors, two have been presidents of large downtown banks, one a past president of the Texas Manufacturers Association and the present mayor is chairman of the board of Dallas' largest industry.

In Dallas, where we have built so many schools, so many expressways, and since the war have put $514 million into public improvements for the expanding city, we have the least taxes per capita of any city in the country. We have no city income tax, no sales tax, and an ad valorem tax that is fairly evaluated. Here are some typical figures: Dallas, $675; Boston, $1,139; New York, $1,092; and Cleveland, $1,175.

10. Opportunities present a thrill to every citizen of Dallas. As I ride up and down the streets of Dallas, I see place after place where people started from scratch and developed a tremendous operation. One typical example is the Haggar Co. Here was a fine man of strong character. He first came to Dallas as a pants salesman—an immigrant from Lebanon. He sold and he saved and then started manufacturing for himself. Now J. M. Haggar is the largest slacks manufacturer in the world.

11. Brains provide Dallas with a stimulating environment. The largest business in Dallas is a reflection of the type of city that we have. Texas Instruments is a business that is built on brains—new ideas and vision. Texas Instruments cannot stand still. When they build a new piece of machinery, they anticipate that it will be obsolete in 9 months. New ideas and new machinery are continually moving this industry forward.

This is Dallas where our greatest asset is the people—people full of love who believe in God and themselves. People who are not afraid of hard work, who are self-reliant, and who cherish freedom for themselves and for their children.

THE RINGING OF BELLS: A FAVORED WAY OF OBSERVING THE FOURTH OF JULY

Mr. HARVEY of Michigan. Mr. Speaker, I ask unanimous consent that the gentlewoman from New Jersey [Mrs. DWYER] may extend her remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mrs. DWYER. Mr. Speaker, on June 26 a year ago, the House gave final approval to a concurrent resolution prescribing the ringing of bells throughout the country at 2 p.m., eastern daylight time, as an appropriate way of observing the anniversary of the signing of the Declaration of Independence on the Fourth of July.

With this great national holiday rapidly approaching, it seems fitting to recall our action of a year ago and to encourage public officials and the American people to continue and broaden the deeply meaningful practice of ringing the bells as a means of commemorating the signing of the Declaration of Independence.

As the sponsor of a similar resolution, I regretted that only a few days remained last year between congressional approval of the resolution and the Fourth of July, which limited the extent to which a coordinated program for ringing the bells could be arranged. We can do much better this year if officials at all levels of government will increase their efforts to make the observance truly national.

When it was signed and proclaimed to the world of 1776, the Declaration of Independence was a revolutionary document in every sense of the word. It marked the birth of a new nation as a

free and independent state. As such, it ended 150 years of colonial status and alien rule by the most powerful empire of the time.

It was a bold and courageous act by people who understood fully the implications of what they were doing. The freedom and independence to which they pledged themselves was a condition of life they believed was the rightful heritage of all people, and for which they were prepared to sacrifice the ultimate—their own lives and fortunes. Their declaration was not an empty or reckless gesture, as the years of bloody warfare which followed confirmed.

They were right; they were determinded; and they were successful.

But in celebrating their courage and vision—to which we have become the fortunate heirs—it is not enough simply to look to the past in the sense of completed history. The Declaration of Independence has always been a uniquely living document, phrased in language that seems permanently contemporary, and possessed of the power to inspire people everywhere to the pursuit of personal liberty and national independence.

We here—in this time and place—can do no less. Indeed, it is our task to help make of the Declaration the truly revolutionary statement it has always been, to help make its enduring principles come fully alive again in our own day. It has never been more important than it is today for all Americans to understand what freedom means, to appreciate the blessings that freedom has brought us, to face together the dangers which freedom confronts, and to accept the obligations which freedom imposes upon all of us.

The framers of the Declaration of Independence understood that freedom is not a tangible commodity which—once possessed—remains secure. They knew not only that freedom can be lost but that, like a living organism, unless freedom continues to grow and expand it is in danger of death.

It belongs to every person and to each generation to keep freedom alive and growing—in the human spirit, in our institutions, and in the law of the land. Even in our own country—proud as we rightfully are of the extent to which freedom has thrived among us—freedom is still our unfinished business. We have only to glance about us to see how far we, the oldest continuing democracy on earth, have fallen short of realizing the full promise of freedom for all our people. And beyond our borders, the situation is even more challenging.

It would be foolish to imply that the ringing of bells might somehow galvanize us all into doing what needs to be done to extend the scope and perfect the quality of our freedom. But if it accomplishes nothing more than to bring to our minds—if only for a moment—the significance of our commitment to freedom and to provide a gentle reminder of how our country was born and what it represents, then it will be greatly worthwhile.

Traditionally, the ringing of bells has signified several different things—both of a civic and a religious nature—all of them compatible with our particular purpose. The sound of bells has summoned the faithful to worship, called the citizens of a community to a town meeting, hailed a great victory, alerted the people to danger, announced the passage of time, and indicated a moment for silent prayer or reflection.

Bells have rung out joyfully and tolled mournfully, but it is as a summons and an alert that I think of the ringing of bells on the Fourth of July—a summons to our responsibilities as free citizens, an alert to the dangers and opportunities that lie ahead of us as we move along the open highways and twisting trails of the free way of life.

No one can predict with any assurance what consequences might flow as a result of a simultaneous, nationwide ringing of the bells on the Fourth of July. As the practice grows and deepens into the national consciousness, however, perhaps we can hope it might lead to a national act of reflection upon and rededication to the ideals of freedom—and give life to the spirit of the day throughout the year.

SOVIET RULE IN ESTONIA, LATVIA, AND LITHUANIA

Mr. HARVEY of Michigan. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr LIPSCOMB] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LIPSCOMB. Mr. Speaker, when the army of the Soviet Union invaded the peaceful Baltic States in June 1940, it brought with it the most deplorable practices ever enforced by one people on another. Among many other things, the Communists began deporting from Estonia, Latvia, and Lithuania anyone who might be a leader of opposition to Communist rule. Later they extended deportations to practically anyone who resided there. This was a very large number of people because the Baltic States had never evidenced the slightest conviction in the teachings of Marx and Lenin.

These deportations continued throughout 1940 and 1941. The first few months 100,000 people were either executed or sent to remote parts of Asiatic Russia. As if this were not horrible enough, when the Nazi Army invaded the Baltic, the Soviet conquerors redoubled their efforts. They had long since run out of reasonably important victims and they increasingly persecuted completely humble and innocent people, who had spent their days tilling their soil, or shaping their products, bothering no one, threatening no one. By June 1941, the true intent of the Soviet invasion and deportations became clear—it was to completely eliminate three entire nations and seize the wealth of three peoples for the benefit of the Soviet Union.

With an eye toward the future when the invading Germans might be thrown back, the Russians planned a special effort for June 14, 15, and 16, 1941. They intended to break forever the will and ability of the Baltic States to resist communism. Therefore, during the night of June 13–14, they began surrounding whole villages and large areas of cities and seizing everyone they found sleeping in the houses. Their operation was diabolically thorough. Men, women, and children were rushed out to waiting trains without time to gather more than a very few personal belongings. Families were separated and sent to different destinations.

The fate of many of the nearly 100,000 Baltic people seized during the horrible days of June 1941 by the Communists is unknown. Some of them perished in railroad cars. Some were worked to death in Siberia. Others have been scattered all over the Soviet Union and forced to adopt the ways of their Russian conquerors. But the fate of the wealth of their many years of hard work is well known. It was given to Russian citizens, who now live in extraordinary numbers throughout the Baltic States. There is no doubt that the Communists hope by this means eventually to destroy completely the independent identity and culture of the Baltic nations.

We make special mention today of the Baltic deportations of June 1941 to urge the Soviet Union to do everything in its power to make restitution to innocent people, and at the same time to remind the world of the consequences of communism.

With confidence that the future holds increased happiness and peace for the long-suffering people of Estonia, Latvia, and Lithuania, we send to them our encouragement and words of praise today for their bravery in the face of intolerable agony, and for their continued struggle for independence.

GOVERNMENT SPENDING

Mr. HARVEY of Michigan. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana [Mr. HARVEY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HARVEY of Indiana. Mr. Speaker, I include in the RECORD two articles on "Government Spending," written by Maurice Stans, former Director of the Bureau of the Budget:

GOVERNMENT SPENDING—I

(A clear and penetrating analysis of Government spending and the national budget, from the broad business viewpoint, is presented by a former Director of the Bureau of the Budget, from a speech to the National Industrial Conference Board.)

(By Maurice Stans)

A year ago, in 1963, the American public was in an aroused hue and cry for large cuts in the Federal budget. Hundreds of thousands of letters descended on Washington. Congress set to work to curb what it considered to be an extravagant program of spending, and by the time it finished its work the requested appropriations for fiscal 1964 had been reduced from $107.9 billion to less than $100 billion.

This year, in 1964, the American public gives the impression that it couldn't care less about what happens to the budget. No mail on the subject reaches Congress. The best efforts of a few informed and determined budget cutters in that body will barely add up to sustainable reductions of $2 billion, if that, in the appropriations for fiscal 1965.

What has happened in 1 year to change the attitude of the Nation so measurably? More importantly, what does the change signify, and what does it portend for the years ahead? Is Federal spending no longer a matter about which we should be concerned? Where are we now and where are we headed?

These are the questions to which I address myself today. I propose to analyze the Federal budgetary situation in the light of the enactment of tax reduction, the change in the Presidency, the 1965 budget and its implications, and the probabilities ahead. I hope that what I have to say will offer a reading on the Government's fiscal prospects that will induce businessmen and the public to come to grips again with the spending issue.

If we are tempted to find simple answers to the questions I have posed, we can start with the two that on the surface seem most probable:

1. The American public, now that it has its tax cut, is just plain disinterested for a time in whether the Government runs a surplus or a deficit.

2. President Johnson has submitted a 1965 budget that he describes as austere, prudent, and frugal, as calling for a reduction in expenditures and in the deficit, and as carrying us a giant step toward a balanced budget.

Putting both of these answers together, we are led to the natural conclusion that the public is thoroughly happy with the idea of an economy-minded President taking over all concern about budgetary policy and undertaking the job of making ends meet in the Government.

But there are pitfalls in this course and here are some of them:

1. A President of the United States, however firm his intentions may be, cannot single-handedly control the public purse. He needs all-out help in any campaign of fiscal discipline for the Nation. The demands of the bureaucrats and the special interests always exceed the country's resources, and their pressures for spending are relentless.

2. Attaining an eventual balance of revenues and expenditures is in fact much more difficult than is implied by the outward appearances of the 1965 budget now before the Congress. This is true because of the composition of the present budget items, because of the inbuilt future growth in certain Federal programs, because of the fact that the full impact of recent and present new proposals is not yet evident, and because of the strength of the forces for spending in the Nation, now highly stimulated by the immense growth of Federal programs in recent years.

In other words, the problems of high and increasing spending and dangerous budget deficits are as much with us this year as last, and will be as much with us in the future, regardless of who is President. National fiscal policy happens to be one of the most highly debatable and fluctuating elements in the functioning of a democracy. It will continue to be so as long as the people consider their National Government to be an impersonal entity able to create unlimited funds to satisfy their desires, not recognizing that only they themselves can provide the wealth that the Government dispenses.

It is well that we recognize that there is no easy solution to budgetary problems, no convenient end to fiscal difficulties, and that those who are sophisticated enough to understand this subject must keep informed, alert and active. It is timely, in other words, that we reconsider here the inconstant attitude of business toward Government spending.

Frugality, austerity, and economy are terms of comparison, so to evaluate where the 1965 budget stands in this respect we ought to see how it relates to earlier points in time. In other words, to put everything in perspective, we need to look back a bit—to 1960, let us say. You may remember 1960 for a long while. It was the last time the budget of the United States ended in balance. Expenditures of the Government in that year were $76.5 billion. Now, just a few years later, we are right at the $100 billion mark.

Shortly before January 20, 1961, the last day of the Eisenhower administration, I submitted to the President the first long-range projections of Federal spending ever compiled. These make a good base for another comparison with the present budget. They were compiled on three levels, for the 10 years from 1960 to 1970. The first was an economy minded and frugal, but wholly possible, level of Federal spending, somewhat more restrained in its trend of growth than in the previous decade. The second was a high, obviously lavish level, which undertook to meet widespread public demands for more spending. The third was a medium level, which was considered to be reasonably progressive and most likely under local and international conditions like those of 1960.

Without going into the arithmetic in detail, I will merely report that the economical level for 1970 ($83.9 billion) was passed in 1962, the medium level for 1970 ($97.4 billion) was exceeded by 1964, and the high level for 1970 ($122.6 billion) is right on the present trend line. In other words, in the 4 years since 1960, spending has been growing at the highest rate objectively conceivable at that time.

To measure our current position and the forces behind it, as the President must deal with them, we could well go over an earlier course of history, reviewing the progression of how we got where we are. In 1930 the entire cost of Government, including interest on the debt, public welfare, and national security, was only $3 billion. By 1940 it was $9 billion. By 1950 it had grown to $43 billion. By 1960 it was $94 billion. It is now right on target for $150 to $160 billion by 1970.

What can the President do to slow down this forceful progression, which has moved at a rate which exceeds the growth in population, the gains in gross national product, or any other valid scale?

Before we find fault with the 1965 budget, there are some things we should say in its behalf. Without doubt it is considerably lower than the total of the desires of the Government agencies, and almost certainly it is somewhat lower than the one which President Kennedy had planned to submit for 1965. But how does it appear in other respects? Here are some simplified statistics:

1. The 1965 budget calls for $22.9 billion more in program authorizations than President Eisenhower suggested in his last budget for 1962, just 3 years earlier.

2. The 1965 budget asks for $103.8 billion in authority to spend, which is $5.5 billion more than Congress was willing to vote last year for 1964. (Even after supplemental appropriations likely to be passed this year for 1964, it is $4 billion higher.)

3. The budgeted expenditures for 1965 are $97.9 billion, but this is after deducting $2.3 billion in sales of Government-owned loans and mortgages and over $80 million of bookkeeping transfers or credits, including some from improbable new legislation. Actual planned spending for the year, before such deductions, is about $2 billion higher than the truly comparable figure for 1964.

4. It contains some obviously understated appropriations requirements. For example, while the price support program may last out the year on the appropriations requested, because of past authorizations, the normal annual cost of present farm programs is at least $1.5 billion above the amount of appropriations asked for in 1964.

5. There are some apparent underestimates in expenditures, especially in farm programs. Considering also the fact that the estimates of revenues are on the optimistic side, it is likely that the planned reduction in the deficit, from $10 billion to $5 billion, may well fail of accomplishment by a considerable margin.

6. The budget shows a wholly desirable reduction of 1,200 (later increased to 1,900) in Government civilian employment in 1965, but this is after an indicated increase of 22,000 in fiscal 1964 (later decreased to 15,000), and an increase of 156,000 since 1960.

7. It is said to contain vigorous pruning of old programs, when in fact three appropriations are increased (by $1 million or more) for every one so decreased.

8. The budget contains almost $6 billion of built-in expansion, including about $3 billion in proposed enlargements in scope of old programs or to initiate wholly new programs that are sure to grow in coming years. Of all these figures, the requested authority to spend is most significant as a portent of the future. The budgeted appropriations of $104.3 billion, if increased to reflect annual program requirements of farm price supports, rural electrification, urban renewal, and other items not included this year at normal levels, becomes approximately $107 billion. This is the base for future appropriations and expenditures and makes doubtful any expectation of subsequent budgets much below this amount. Add to this a carryover of $95 billion in unspent but largely committed appropriations of earlier years and you can see, for example, how difficult it will be to hold actual spending below $100 billion hereafter.

This conclusion is compounded by the large amount this year dedicated to beginning new programs. These factors measure the real significance of the 1965 budget, looking ahead, and point up the magnitude of the President's task in holding future budgets at anywhere near the present level.

GOVERNMENT SPENDING—II

(By Maurice Stans)

Only because the national compulsion toward higher spending is so strong can the 1965 budget be termed austere or frugal or economical, as it clearly is in relation to more pleasing alternatives. It is from these positions that the President must take off, and with these figures that he must contend, if the country is to achieve a balanced budget at any time in the next decade.

Assuming that Congress approves the 1965 budget in substantially its present terms, and enacts a large part of the new programs, where do we go from here?

It is wholly unrealistic to believe that the level of Federal spending will ever be significantly reduced. Even an ultimate disarmament is likely to be so gradual that its savings will probably be eaten up by new Government activities and the growing costs of carrying on present ones. The first budgetary fact of life that a President learns is that going programs (like veterans benefits, public assistance, retirement pay, and many others), without any increases in their scope, have a normal built-in growth of close to $3 billion a year. Therefore, to hold total spending at a fixed point from one year to the next would require reductions of $3 billion elsewhere and an almost total refusal to entertain new programs or to expand old ones. Yet when revenues are somewhere between $5 and $10 billion

behind expenditures, the only way equilibrium can be attained in a reasonable time is for expenditures to be kept from growing very significantly. (A 4-percent annual increase in gross national product would normally produce roughly a $4 billion increase in Government revenues, but this amount of gain is probably not attainable for fiscal 1966 because of the offsetting effect of the second step of tax reduction. There is talk of more tax cuts in a year or so.

The most desirable course, considering all this, would for the President to propose, and the public to insist, that Government spending be held below $100 billion until revenues catch up. It is possible that this could produce a balanced budget for 1967. This is a very difficult goal, considering where we are now. It can be attained, but only if a number of factors work out favorably.

1. The economy must carry on at a 4- to 5-percent annual growth rate. Any recession could defer a balanced budget for many more years.

2. Reductions in some Government programs must be imposed. There are good sizable candidates in the farm program (where reductions are politically almost impossible); in the expensive space program (where expenditures can be stretched out and made more effective if the ill-advised goal of a "man on the Moon by 1970" is extended); in the production of atomic weapons (attainable if military target and warhead requirements are suitably re-evaluated); and in defense costs, especially manpower and maintenance of conventional forces (of which President Eisenhower has been an outspoken critic) and overseas defense commitments, including the large number of troops in Europe (which President Eisenhower has many times questioned). By these steps a good start could be made toward the 25-percent reduction in defense expenditures which former Defense Undersecretary Roswell Gilpatrick says may be achieved over a period of time, and American industry would not suffer because most of the reductions would be in operating and overhead costs, and the rest would be very gradual. There are many other opportunities for lesser reductions throughout the budget, of which rural electrification and agricultural conservation are good examples.

3. The President must find a way to stop the normal upward bureaucratic "creep" in other agency activities. There are many programs not related to population growth, to timetables, or to any specific measure of need, that year after year move slowly upward in response to self-generated opportunities in the Government offices. These programs could be stabilized by the President and the Congress until the budget is in balance, at which time new evaluations could be made and new priorities fixed. Among the programs which could, without harm to welfare or national security, be frozen at present levels are soil conservation, construction of public buildings, geological survey, watershed protection, coast and geodetic survey, Corps of Engineers construction, sport fisheries, Bureau of Reclamation construction, foreign agricultural service, and medical research. These are merely illustrations. There are many others.

4. And again, new programs must be withheld until the budget is able to absorb them without strain; and necessary additions to old programs must be financed by reprograming down some of their present scope.

In other words, the problems of the President in achieving a fiscal balance are imposing and monumental in the light of recent trends and countervailing present forces. Only the utmost determination in Washington and support at home can retard the trend of credit-card spending of the last 30 years.

There are some things that businessmen ought to be willing to do to help achieve the objective of restraint in Government finances. I pose them to you in the conviction that, without strong and emphatic demand from the general public for sound budgetary procedures and practices, the Nation will go merrily along on its deficit-ridden way until it finds itself in a predicament of debt and inflexibility which will sap the national vitality and leave us too weakened to deal with internal and external emergencies.

Here are things each of us can do:

1. Study and understand the annual budgets in more detail, so we are not unduly influenced by published totals which, unfortunately, do not reveal much of the meaningful facts about Government finances. Only by comparison of individual appropriations and categories are the trends clearly evident.

2. Support measures for economy wherever indicated, even though they may mean some temporary disadvantage for our community or our industry. The President and the Congress need to know, year in and year out, that we want sound fiscal policy.

3. Oppose the proliferation and growth of Federal programs not justified by a strict test of necessity for the Nation's security or welfare. Desirability is not adequate justification for Government spending.

4. Support proposals which would give taxpayers a greater direct voice on Federal spending. One such proposal now in Congress is for a Presidential advisory commission on Federal expenditures (which, however, in its present form calls for too many members from the ranks of Government).

5. Urge and support proposals to improve congressional review of fiscal matters. One of these especially worthy would provide a joint congressional committee on the budget, with staffing for majority and minority parties, to provide research on budgetary policy and trends, preliminary to annual appropriation actions. Such a committee could insist on more long-range studies like that which we released in 1961, and more consideration to the long-range consequences of budgetary actions.

You will note, I am sure, that nowhere in this analysis do I say a word about foreign aid. There is no need for me to belittle it; it has few friends. The honest danger is, believe it or not, that under present conditions and attitudes, it may be cut too low for the Nation's good. If you wonder why I make a point of saying this, I hope you will conclude that at least it establishes this whole analysis as being unbiased and objective.

GEN. PAUL D. HARKINS DECORATED

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey [Mr. MURPHY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, at 11:30 a.m. this morning President Johnson decorated Gen. Paul D. Harkins with the second Oak Leaf Cluster to the Distinguished Service Medal, which is the Nation's highest award for meritorious service and which is awarded only to those soldiers who serve in a position of great responsibility. The country is indeed fortunate to have had General Harkins on active duty in the Regular U.S. Army for the past 35 years. General Harkins was born in Massachusetts. His distinguished career includes service as deputy chief of staff of Task Force NATO in 1942 and 1943; deputy chief of staff, 7th U.S. Army in 1943 and 1944; deputy chief of staff to General Patton's 3d Army throughout the campaigns across France and Germany. He was the inspirational commandant of the cadet corps at West Point from 1948 to 1951, and then commanded the 24th and 24th Infantry Divisions in Korea and also served as chief of staff of the 8th U.S. Army in Korea. In 1960 he was deputy commander and chief of staff for Headquarters, USAR Pacific, until his assignment in 1962 as commander of the U.S. Military Assistance Command in Vietnam and Thailand.

I had the privilege of serving with General Harkins for 4 years and there is no man whom I respect more, as a soldier and as a man. I would like to include the remarks of President Johnson as he presented the Distinguished Service Medal to General Harkins, and I would also like to include herein the response by General Harkins:

The PRESIDENT. General Harkins, Mrs. Harkins, Secretaries Rusk and McNamara, ladies and gentlemen, and distinguished guests, few duties of the Presidency are so gratifying as an occasion such as this when we come here to say on behalf of a grateful Nation, "Well done" to a good and faithful servant.

Since this Republic was born 188 years ago, our success has come in very large measure from the willingness of individual Americans to serve the cause of us all whereever duty might call, whatever sacrifice duty might command. General Harkins has at every post and in every way personified this tradition. He has exemplified this great ideal. He has served his country faithfully and well in a long and distinguished career. As staff officer, as senior commander in Europe, in the Far East, he has always been outstanding.

It is a measure of the man and testimony to his valor that General Harkins has received the Distinguished Service Medal twice previously for his achievements during World War II and in Korea.

If medals could be awarded to the wives of officers and men in our services, certainly Mrs. Harkins could deserve high honors today herself. For the past 82 months, while the general has held three extremely sensitive commands in Europe and the Pacific and Vietnam, Mrs. Harkins, as she is today, has been continuously at her husband's side.

Here at the White House earlier this week it was my privilege to present the Distinguished Service Citation to four outstanding civilian career servants who are in the Federal service. I emphasized then that many of our old stereotypes about public employees are obsolete. I said that we must have and we are receiving a new quality of excellence from those who serve the people in civil service positions today.

I think much the same thing may be said, and should be said, about the career, professional military man who serves the cause of freedom in the uniform of the United States today. The old stereotypes do not fit the new generation of American military men. Our democratic society has produced a new breed of commanders. They are men who are devoted to that society's values as well as to that society's survival. Their concern for our preparedness does not eclipse their concern for the world's peace. We and the free world owe to them a debt of deep re-

spect, not only for their professional service, but for their service as citizens of a free civilian society as well.

General Harkins will retire from the service on the 1st of August. I have asked Secretary McNamara, who has such great and unlimited confidence in this great soldier, to have the general remain in the Washington area so that we may benefit from his broad knowledge of and his experience in the various theaters of the world, and particularly southeast Asia.

So, General Harkins, on behalf of the Nation, I am very proud and quite privileged to present to you today the Second Oak Leaf Cluster for your Distinguished Service Medal. I congratulate you. I thank you. I wish you and Mrs. Harkins well for your long and faithful service to freedom around the world. You have earned the best that can come to anyone.

(The citation was read by Secretary McNamara.)

The PRESIDENT. General Harkins' friends are here and I know he will want to visit with them and say hello to them. If you care to, you may proceed.

General HARKINS. Mr. President, Secretary McNamara, Secretary Rusk, distinguished guests, I am greatly honored and deeply moved for this ceremony this morning, and I deeply appreciate also your coming over here to be a member of this occasion. I know how busy you all are, but I certainly appreciate it.

I accept this honor with deep humility, and I will wear the Distinguished Service Medal not for what I have done in Vietnam, but for what the many thousands of Americans, wonderful people, have done there up to today. They have made a tremendous contribution to the effort in southeast Asia. And particularly for those who have given the supreme sacrifice I will wear this.

There is another group that I would like to wear it for, and they are as deserving as myself; it is what I call my "first team," my chief of staff, Dick Weede, is a marine; General Timmes, my Army commander; Rollen Anthus, my Air Force commander; and Captain Drachnik, of the Navy, my Navy commander. They are all here today, and to the "first team" I appreciate all of the work and the very fine work you did.

Mr. President, I want to thank you, the Members of both Houses of Congress, the members of the services, the Joint Chiefs of Staff, and last, but not least, Mr. McNamara and the Department of Defense, for all of the support that I have had while I have been in Vietnam.

I don't think any commander any place, at any time, ever got as full support as I have, and it has made my job so easy out in Vietnam. As you know, I have always been an optimist. I guess I was born one, and I continue to be an optimist about Vietnam. There will be times when things look dull, but that is not for the weak. When I left Vietnam, I was very encouraged from the reports I received, and from going around the country and the reports I received from the various advisers throughout the land, very, very encouraged.

As you know, running a complicated war such as is going on in Vietnam now, with a good, strong government, is very, very difficult to do. Without an effective government, it is almost impossible. Up to just recently we haven't had an effective government for, say, the last 9 months. So when you are not in command, and you are trying to go to see somebody to tell them what to do or give them some advice, you can't find them and if you do find somebody, they are not the right people. It is very, very difficult. I think now that General Khanh and his government, which has been in power for 4 months, is beginning to take hold, the programs that we have helped them devise are beginning to show little lights here and there. I won't say everything is fine. It isn't. But at least we have a good base, the Government is on the initiative, and I think they have the determination and the will, and all we need is time and patience.

I am reminded of our own revolution. It took 8 years to get through our revolution, and then we ran into some of the toughest guerrillas that we ever want to run into any place—the American Indians. We started what we call in Vietnam today an oil spot moving across the country. The last Indian war was 1892, over 100 years after we started our Revolution. There is a social revolution going on now in Vietnam. They are not at the stage to say "We the people," but when they do get to that stage, then things will be fine.

Again, I thank you very, very much for this occasion, and I wish the new group that is going out there all of the best of luck and I am sure you will find a wonderful setup in the American forces.

Thank you very much, Mr. President.

NAACP'S 55TH ANNUAL CONVENTION

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. NIX] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. NIX. Mr. Speaker, under permission granted, I insert in the CONGRESSIONAL RECORD the following remarks taking notice of and directing the attention of my colleages in both Houses to the 55th Annual Convention of the National Association for the Advancement of Colored People. During this entire week, the officers, delegates, and friends of this magnificent organization will be reflecting upon recent events and planning ahead for the long struggle for full compliance and equal opportunity under law.

Mr. Speaker, it is very significant that this meeting immediately follows passage in the U.S. Senate of the first comprehensive Civil Rights Act since 1875. That this event and the eventual final enactment of the law are landmarks in the history of the Nation will be duly noted by the NAACP convention speakers and delegates. It is fitting, then, that this great association meets in Washington, the seat of the Nation's Government, at such a propitious moment.

The lengthy and bitter fight to obtain equality under law for all Americans has indeed reached a critical stage. In the forefront of that campaign over the last 55 years, the NAACP has been the undisputed leader among all organizations, past and present, which have made significant contributions to the movement.

Mr. Speaker, when the all-Negro Niagara movement merged with the racially mixed group of conscientious and freedom-loving Americans in New York, in 1909, the NAACP was born. Since that time, the association has been a model of Negro-white cooperation in the fields of civil rights and race relations. Thus, the NAACP has demonstrated clearly to the Nation and the world, what can be accomplished when American citizens of every race, from every locale, and with varied socio-economic backgrounds combine their resources and concentrate on the most vital unfinished business of the American Republic—the movement to obtain equal status and treatment under law for every American, regardless of race, color, creed, or national origin.

In the area of legal action the NAACP has no peers. Its record of cases won in the courts of the land, and especially before the U.S. Supreme Court, is a signal tribute to the justice of its cause and the ability of its legal staff. On the local scene, its 1,762 branches, youth and college chapters in 49 States are ever vigilant and highly effective in resolving civil rights problems, often without the intervention of the national office. These are local people working on local problems within a local context. The fact that their activity results in restructuring local race relations is indicative of the great neglect and severe injustices which have too long existed in too many communities. They cannot be praised too highly.

Mr. Speaker, there is no such thing as a "typical year" in the history of the association. Every year stands out as a year of progress marked with varying degrees of disappointment and occasioned by some stark tragedies. However, in no year has the association been content to rest upon its past accomplishments; but rather it has kept flailing away toward the destruction of racial discrimination and segregation wherever it existed and in whatever form it reared its ugly head. The NAACP has always been truly in the vanguard of the movement for equal rights.

Certainly among its notable accomplishments has been its almost single-handed fight against legal murder in the form of lynching—a fight which has seen the incidence of lynching disappear and, with it, the destruction of the main weapon in the "rule of fear" tactics of segregationist bigots. But death is still a consequence of vigorous civil rights activity and violence is a constant companion of or threat to every civil rights worker. Vivid demonstrations of this were seen in the tragic deaths of NAACP Field Secretaries Harry Moore, of Florida, in 1951, and more recently, Medgar Evers, of Mississippi. These acts of criminal violence vividly underscore the need for strong and continuous protection of the rights of Negroes to life, liberty, and equality.

Other organizations make important contributions to the movement for equal rights, too. However, their existence and successes in no wise constitute challenges to the leadership which so consistently and vigorously has been provided by the NAACP. In fact, these organizations are not only compatible with and complimentary to the NAACP, but they are also largely dependent upon the association which furnishes the bulk of the successful legal action that turns victories won in the streets and public squares into permanent and progressive developments in American constitutional law.

While legal action is not by any means the only activity the NAACP undertakes,

it is certainly one of the most important in terms of the numbers and the significance of the cases. One need only recall the invalidation of the White Primary, in *Smith* v. *Allwright* (1944); the bar to court enforcement of racial restrictive covenants, in *Shelly* v. *Kraemer* (1948); and the voiding of public school segregation by race, in *Brown* v. *Topeka* (1954–55).

During the past year alone, the legal action affiliate of the NAACP, the legal defense and education fund, defended 10,487 persons arrested in peaceful demonstrations against racial discrimination; represented Negro Americans in 30 cases presented to the U.S. Supreme Court for review; maintained a staff of 12 attorneys in New York supplemented by 102 lawyers in various southern communities; and fought 168 separate groups of legal actions in 15 States. Within the limits of its budget and the trends in constitutional law, the NAACP refuses no case and enlarges each year its contribution to the equal rights movement and the growth of our living constitution. Thus, the LDEF and the NAACP have forged and fashioned the law by presenting to and winning before the Supreme Court virtually all of the major cases involving racial equality.

Therefore, Mr. Speaker, I encourage all of my colleagues in both Houses of Congress to salute at this time the following: First, NAACP executive secretary Roy Wilkins, this year's recipient of the coveted Spingarn Medal, awarded annually by the NAACP; second, national president for 24 years, Arthur B. Spingarn, successor to his brother, Joel, who was president for 20 years; third, chairman of the board of directors, Bishop Stephen G. Spottswood; fourth, Washington bureau director, Clarence Mitchell, who is certainly no stranger to Capitol Hill and for whom I know you have the highest regard and respect; fifth, legal counsels, Robert Carter and Jack Greenberg, successors to Thurgood Marshall and, like him, titans of the legal profession; sixth, Gloster B. Current, director of branches; seventh, Henry Lee Moon, director of publicity, and James Ivy, editor, the Crisis, official organ of the NAACP; and eighth, the more than 500,000 rank-and-file members of the association who really are the NAACP at the local level.

It is fitting, too, that we salute, in memorium, Moorfield Story, first president of the NAACP; Dr. W. E. B. DuBois, as founder the Niagara movement and the NAACP; Mary White Ovington, a founder and long-time officeholder; Charles Houston, first full-time legal counsel and architect of the legal assault on racial segregation; Walter White, illustrious, flamboyant former executive secretary; and James Weldon Johnson, poet, composer, statesman, educator, and former executive secretary.

Because of its dedication to freedom and equality; because of its unmatched contribution to the civil rights revolution; because of its consistent and outstanding leadership; because of its vivid demonstration of the fruits of Negro-white cooperation; and because its cause and its position are right, I call upon all of the Members of Congress to hail the National Association for the Advancement of Colored People.

Mr. Speaker, last night, NAACP executive secretary Roy Wilkins became the 49th recipient of the coveted Spingarn Medal, the association's highest tribute for achievement in furthering the movement for racial equality. On Monday night, Mr. Wilkins delivered a brilliant keynote address at the first general session of this year's NAACP convention. I now include the text of that speech in the CONGRESSIONAL RECORD:

KEYNOTE ADDRESS BY ROY WILKINS, EXECUTIVE SECRETARY, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, BEFORE ITS 55TH ANNUAL CONVENTION, WASHINGTON, D.C., JUNE 22, 1964

We gather here in the Capital of our country in the 55th annual convention of our association in a truly historic moment for our constituency, for our Nation, and for our trouble-torn world.

One year ago we had taken from us our courageous and inspiring Mississippi leader, Medgar W. Evers. The man who took his life in a cruelly futile effort to stop the movement of history contributed instead to the surge of last Friday. Medgar truly gave his life for his people.

Ten years ago the segregation and the cheating of our children in the public school system was struck down as unconstitutional. The resistance to that ruling and the open defiance of it, including the shameless persecution of the youngsters who sought their rights, contributed to the moment of history on June 19, 1964.

Seven months ago today on November 22, 1963, our President was assassinated in a region where hatred had been practiced so long and so respectably on Negro citizens and on their aspirations that its transference to even a President of the United States was easy. The civil rights haters did not kill John Fitzgerald Kennedy, but they created a climate which was not hostile to a killing over a difference in policy.

The anger and anguish they stirred helped to write into the history books, exactly 1 year after President Kennedy's civil rights message, the step he felt necessary for the Nation—his beloved Nation—to take. One sentence in his memorable message haunts us with its all-American truth: "I ask you," he said, "to look into your hearts, not in search of charity—for the Negro neither wants nor needs condescension—but for the one plain, proud, and priceless quality that unites us all as Americans: a sense of justice."

So it came about that only 72 hours ago, almost to this very hour, the United States of America took another giant step forward toward the attainment of the ideals set forth by the founders when the Senate passed the long-debated civil rights bill by a vote of 73 to 27.

Our country has fought over and won the long battles for freedom of the press, for freedom of religion, for the rights of labor, including child labor, for the rights of women, for due process of law, and for a dozen lesser, but important vindications of the rights of man. On June 19, 1964, by action of the Senate upon a bill previously passed by the House, our country reaffirmed its dedication to human rights without distinction as to the race and color of the humans.

This was another in the succession of soul searchings, heart wringings, conscience wrestlings, and political maneuverings that has marked America's struggle with the problem of bringing the descendants of former slaves, people of another color, under the Western democratic concepts of citizenship equality and individual freedom protected by law. Not, mind you, by custom or happenstance or caprice or local option, but by law.

This is the basic message of what will shortly become the Civil Rights Act of 1964. The legislation addresses itself to specific discriminations in voting, public accommodations, employment, public education, and the use of Federal funds. It provides ways in which such grievances may be redressed, all based upon the responsibility of the Federal Government to act to protect individual rights against abridgment or denial by the States.

These specifics are helpful, will be invoked and, despite dire predictions from foes of the bill and skeptical observations from some civil rights advocates, will benefit the Negro sufferers. But the principal value, the value above all others, is the recognition finally—by the Congress of the United States that the Negro is a constitutional citizen. Nor is this a value accruing to the Negro alone. Every white American shares it. Every conscience, whether boldly or secretly or in a sort of blustering reluctance, is proud today of our country and its citizens.

Many hands and minds and hearts brought victory. Since last July 2, a formidable group of national Negro, labor, church, Jewish, civic, fraternal, and women's organizations has been at work under the banner of the leadership conference on civil rights of which your secretary has been chairman for many years. Funds were contributed by the organizations themselves.

Organized labor gave generously in money, skilled staff personnel, and in office space. The work of the church groups was magnificent, so much so that the churches were honored by Senator RICHARD RUSSELL, of Georgia, leader of the opposition, by being denounced in unrestrained terms. Our NAACP held a legislative conference last August with 650 delegates from 36 States meeting here to press for the bill. Weekly meetings of Washington legislative agents have been held since September which means that in both the House and Senate every man and every development was covered on a daily basis.

The man in charge of this day-in, day-out, week-in, week-out, month-in, month-out operation was one who deserves your very special thanks and acclaim, our own Clarence Mitchell.

Men in both parties deserve thanks. In the House, 138 Republicans joined 152 Democrats to make the total of 290 for the bill; in the Senate, 27 out of 33 Republicans voted for cloture with 44 Democrats to make that precedent-shattering vote of 71 to 29. On final passage 27 Republicans along with 46 Democrats made history in a 73-to-27 vote.

A rollcall would take too long, but the leaders in the House were Representatives CARL ALBERT and EMANUEL CELLER, Democrats; and Representatives CHARLES HALLECK and WILLIAM MCCULLOCH, Republicans. In the Senate Majority Leader MIKE MANSFIELD and Republican Minority Leader EVERETT MCKINLEY DIRKSEN, along with the floor managers, Senators HUBERT HUMPHREY and THOMAS KUCHEL shepherded the bill through.

Senator DIRKSEN was the key man in the Senate engagement whose speech just before the cloture vote on the debt America owes the Negro citizens who fought for democracy in two World Wars was a classic.

The White House, as everyone knows, was not passive or neutral or secretive in its attitude and this plain position, needless to say, had its effect on the Hill. President Johnson gave no opportunity to congressional leaders to complain that they did not know where the President stood.

As there are at every such leap forward, we have today those who, whether they intend it or not, deprecate the accomplishment by announcing what the civil rights bill will not do, whom it will not benefit. They seem to relegate it to the background by announcing, before it becomes law, what they intend to do the minute it becomes law. These critical observers seem to be disconcerted at

the emergence of a law as their ally in the struggle for human rights.

If the new law-to-be is as limited and ineffectual as they imply, one wonders why its proposal aroused every incipient Fascist in the Nation, why a Mississippi-financed lobby spent more than $300,000 to defeat it, why the extreme leftists, including the Communists, sneered at it, why the official reaction in Moscow is that it will not be enforced, why a major political party is split wide open on the issue, and why Gov. George C. Wallace, of the State made famous by dogs, firehoses, guns, clubs, and the bomb murders of little girls, is using the bill as hate-campaign material?

The NAACP welcomes the law as an ally in the onward struggle. No sane person contends that the bill solves all problems, but we intend to use it, to urge our people to use it and to employ every legitimate means to secure its enforcement. We learned in 1946 that a bill on one phase would not do. We learned in 1957 that only a part of a voting bill could be enacted and in 1960 we got that upgraded. Now, in 1963–64 we got a bill with 10 titles, the most comprehensive ever drawn. We worked hard for its enactment and we don't intend to damn it with faint praise, with "buts" and "ifs" and "we'll see." We will not only use our own resources, but we join the late President Kennedy and President Johnson in the call for action by Government, industry, and private agencies to secure compliance.

We were occupied in the year since our last convention with other activities besides the major project of the civil rights bill. We participated in the March on Washington last August, even though by reading a certain magazine of a Chicago publishing firm one would never guess that the NAACP was within 1,000 miles of the March. Your NAACP put in staff personnel and about $14,000 in cash. It also put up a deposit of about $20,000 to guarantee the loudspeaker systems. The March was a miracle of cooperation between organizations, including three major faiths, a miracle of skilled organization and promotion and a miracle of dedication on the part of the 210,000 white and Negro participants. It made history with its clear call for human dignity, a call that rang around the world and even in the minds and hearts of the members of the opposition.

Our association was occupied also with achieving the greatest membership in its history, 534,710, at the very time the analysts and civil rights commentators were reciting its obituary in the face of the advent of the "new militants." I see by today's papers that one of the segments of one of the new militants has a membership of 110 in a city containing roughly 450,000 to 500,000 Negro residents, certainly an arresting indication of the community endorsement of that unit.

The NAACP had 75 branches in 1963 of 1,000 members or more with Chicago at the top with 33,708 members. Eight branches had 10,000 or more members and among the States New York led all others with 50,000 members.

The branches, large and small, sent $807,500 in membership fees and freedom fund money to the national office, not counting $169,700 in subscriptions to the Crisis magazine. This makes a rough total of $977,200 from the branches alone. If we add in $21,000 from members-at-large, we have just short of $1 million from within our own organization. I have given this detail not only to make you proud of your national record, but to try once more to strike down that persistent falsehood that the NAACP is supported financially by white people and says and does only what its white donors tell it to say.

We welcome support from all liberty-loving people. We draw no color line in our membership or in our accounting department. But in the NAACP the members pay the way of the association. Friends and well-wishers help (and we need more of their help) but our own membership is the backbone of the strength of the NAACP.

We were busy during the year on every phase of the civil rights program in not one single city, but across the Nation. In Tacoma it was housing; in Cleveland, employment; in Oxnard, Calif., schools; in Boston, a school boycott; in Oklahoma and Kansas City, public accommodation laws; in Mississippi, school desegregation lawsuits; in North Carolina and Florida, restaurant discrimination; in Elizabeth and New Brunswick, N.J., a tutoring program for shaky students; in Gary, Ind., a voter campaign behind a candidate for coroner; in Philadelphia and New York City, jobs in the construction industry. All across the country, jim crow, in whatever form he raised his head, was opposed by flexible NAACP activity, adapted to the problem, to the locality and to the resources available.

We won a major battle in the continuing struggle in Prince Edward County, Va., when the courts ordered the county to reestablish a public school system.

We won another battle for our association and for freedom of speech and association when the Supreme Court ruled that Alabama, the only State that excludes the NAACP, must permit us to organize and function there. We expect to get our reorganization drive underway before the summer is gone and we intend for this convention next year in Denver to welcome home the delegates from our Alabama branches.

We propose this year to press our entire program at an accelerated pace. The work of the civil rights movement is done through many methods, some spectacular and some not so dramatic. It must go on. We intend to keep pushing along the whole front, not afraid of a new idea or a new method, but not afraid to toss out the ideas that are more exotic than they are useful. We will draw much of the energy for this from our very fine NAACP youth councils and college chapters who form the largest organized youth group in the civil rights movement—nearly 80,000 strong.

We will aim at strengthening our allies in the majority population, since a numerical minority must have allies if it is to succeed. We will not sacrifice one goal or one principle in seeking friends, but we will try to expand a policy of true militant responsibility as against reckless adventurism.

We intend to use the ballot on a wider scale. At present, in addition to our southern voter-registration campaign, we have organized voter-registration efforts in 300 northern and western cities. We are getting ready for whatever develops in this election year. Already we have pledged ourselves to support those Congressmen and Senators who voted for the civil rights bill. We will do this.

We shall try, insofar as is within our power, to give the special case of Senator GOLDWATER special attention. While looking at him we must look at his backers. In his speech June 18 explaining why he would vote "no" on the civil right bill, Senator GOLDWATER said:

"I believe * * * some law can help, but not law that embodies features like these * * * which require for their effective execution the creation of a police state."

The bulletin of the John Birch Society for February 8, 1964, asserts:

"The Civil Rights Act of 1963, if enacted, will be the first major legal step in establishing a brutal totalitarian police state over the American people."

Who was following whom?

The new reapportionments within the States will lend assistance to the civil rights cause by giving the white and Negro urban voter the strength to which they are entitled.

To carry on the campaign we will seek more funds and in this quest we will be aided by the new NAACP special contribution fund, which enjoys tax deductibility.

Our legal work in the NAACP itself, our voter-registration work, our community education programs and selected other parts of our activity can be generously aided by those who must have deductibility for income tax purposes. The Internal Revenue Service recently approved the new fund enabling us to expand the nonlobbying parts of our program.

We welcome and will aid the President's antipoverty program. Our people desperately need education, vocational and other. We need a far-reaching youth program. We need retraining for our adults. We need all manner of guidance and assistance in both the cities and rural areas.

We need the lifting of racial barriers in employment if the Nation is not to create a permanently unemployed class composed predominantly of our people. To help avoid this the NAACP has given a new priority and a new urgency to its efforts in behalf of Negro workers. The hiring practices of the giant General Motors Corp. and the exclusionist policies of some of the mighty building trades unions have both come under attack in the weeks immediately preceding this convention.

Finally, we wish to push our cause by expanding efforts within our own group to build the strengths necessary for achievement in a nonsegregated society. We must seek excellence, old-fashioned excellence, that scorns the getting by philosophy. We must not be afraid to raise and to demand adherence to the standards by which many of us and many of our fathers grew up in the world: truth, honesty, morality, justice, and regard for law and order.

The vast bulk of our people does not condone crime. But we resent deeply the attempts to tie every crime of violence to the civil rights movement. We resent the implication that our leaders should be responsible for the acts of every purse snatcher, or drug addict, or murderer. We are a population of 20 million people. That number anywhere on earth has its share of criminals and eccentrics. We condemn criminality. We will join in any legitimate effort to get at the root causes of it.

We urge our people not to hide behind race prejudice as an excuse for the inexcusable. But we do not intend that the great and just surge for decency and dignity shall be smeared by indicting 20 million people for the sins of the few.

We have fine people to give to America to add to those already given in generations past. The mother of Wilma Rudolph carried her child to a foot clinic 50 miles away every week for 2 years so that later, when the chance came, Wilma could win gold medals for her country in the Olympic games. Leontyne Price, the golden-voiced Metropolitan Opera star, came from Laurel, Miss. Willie Mays did not believe what they told him in Birmingham and went on to where he is today—the highest salaried player in baseball.

The University of Texas has engaged a Negro professor of civil engineering to its faculty. Out in California a 72-year-old Negro handyman won his high school diploma after he had sent 10 children through college.

These and millions like them are the people America cannot afford to throw away in a program of senseless racial restrictions. We need them and the new South needs them. These are the people the civil rights bill would multiply. These are the people in whose behalf the National Association for the Advancement of Colored People is privileged to fight. These are the people who, while solving the race problem, could well save Western democratic society itself.

BILL TO INCREASE SOCIAL SECURITY BENEFITS BY 6 PERCENT

Mr. PATTEN. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. ST GERMAIN] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ST GERMAIN. Mr. Speaker, the bill I am introducing today would provide for a 6-percent increase in social security benefits for all present and future beneficiaries. An across-the-board 6-percent benefit increase is one of the most urgently needed improvements in the social security program at this time; it will have a significant impact both for the nearly 20 million social security beneficiaries who will get an immediate increase in their monthly checks, and for our economy as a whole. It is estimated that, if my bill were in effect, an additional $1 billion would be paid out in cash social security benefits in 1965.

The last general increase in social security benefits was enacted in 1958 and became effective in 1959. Since 1959, the cost of living has gone up more than 5 percent and earnings have gone up over 20 percent. Active workers have shared to some extent in the fruits of increased production through wage increases so that, even though prices have risen, they are generally better off as a result of the expansion in the economy. Retired people getting social security benefits, on the other hand, have experienced the full weight of the increase in prices since 1959, when the last general increase in social security benefits became effective, without any compensating increase in their income. Those who must live solely on their benefits—and about half have no other significant income they can count on—find it extremely difficult to absorb even a small increase in prices. For those already on the social security benefit rolls this 6-percent benefit increase will make up for the increase in the cost of living since 1959; it will restore the purchasing power of the social security benefit dollar. Today, social security retirement benefits for people who start to draw them at age 65 range in amount from $40 to $127 a month; under my bill they would range from $42.40 up to $134.70 a month. The average retirement benefit for a retired worker in June 1963 was $73—under my bill it would be increased to $77.40; the average benefit for a retired couple—about $129 in June 1963—would go up to $135.80 a month.

In introducing this bill to increase benefits by 6 percent, I am deeply concerned with the importance of keeping benefits up to date for people coming on the benefit rolls in the future. I am also vitally aware of the need for an increase in social security benefits at this time from the standpoint of our economy as a whole. The 6-percent benefit increase will make a significant contribution toward strengthening our economy and keeping it moving firmly ahead.

The money paid out in social security benefits under my bill would move quickly into circulation and would provide an important stimulus to our economy. It would provide purchasing power and create increased consumer demand not only among social security beneficiaries but throughout our population. Younger workers—people with their own growing families to support—would be to some extent relieved of the financial burden that they might otherwise have of helping also to support their aged parents. To the extent that social security benefits are increased so that they will more nearly meet the needs of our aged people and enable them to live in comfort and independence, the economic well-being of all groups in our population will be substantially improved. In this regard, the 6-percent social security benefit increase that my bill provides would have a significant impact on the poverty problem in the United States. The aged—particularly those who are retired—are among the poorest groups in our population today. Social security benefits are the chief source of support for the retired aged and a 6-percent increase in these benefits is an important step in the effort to reduce and alleviate poverty. It would provide a necessary adjustment in the social security program as well as a substantial improvement in the economic situation of the aged.

These improvements in social security benefit amounts are important in themselves; they are particularly significant when considered in connection with H.R. 10936, which I introduced in April. H.R. 10936 would increase from $1,200 to $2,000 the annual amount that a social security beneficiary can earn and still get all his social security benefits. As I pointed out in my statement introducing H.R. 10936, many people getting social security benefits are healthy and able bodied and should not be prevented from remaining active in the economic life of the Nation by the unrealistic limit of $1,200 on outside earnings. The $800 increase in the amount a person can earn and still get all his benefits will encourage those beneficiaries who are able and want to earn more to do so. At the same time the 6-percent benefit increase will provide higher benefits for those who cannot work and earn substantial amounts. Beneficiaries will have a more realistic choice and a greater freedom to work or not work, according to their abilities and desires. In either case, the Nation will benefit by the more effective participation of beneficiaries in our economic life—by their increased contribution to production or by their increased social security checks.

I ask every Member of the House to join me in supporting this legislation.

NATIONAL SAFE BOATING WEEK

The SPEAKER. Under previous order of the House, the gentleman from Michigan [Mr. CHAMBERLAIN] is recognized for 30 minutes.

Mr. CHAMBERLAIN. Mr. Speaker, with National Safe Boating Week again approaching I welcome this opportunity to present this progress report on recreational boating safety.

First of all, I should like to announce that in accordance with Public Law 85–445 which I sponsored in the 85th Congress, the President of the United States on February 12 of this year issued the following proclamation:

Whereas recreational boating has become a leading outdoor activity for millions of Americans who enjoy this healthful and relaxing use of leisure time; and

Whereas education of the boating public in safe practices contributes to the enjoyment of the sport and reduces the likelihood of accidents; and

Whereas continuing cooperation between organizations and individuals interested in boating is necessary to insure safe boating throughout the year; and

Whereas the Congress of the United States, in recognizing the need for emphasis on boating safety, by a joint resolution approved June 4, 1958 (72 Stat. 179), has requested the President to proclaim annually the week which includes July 4 as National Safe Boat Week: Now, therefore,

I, Lyndon B. Johnson, President of the United States of America, do hereby designate the week beginning June 28, 1964, as National Safe Boating Week.

In furtherance of the objectives of this proclamation, I strongly urge that all individuals, boating organizations, the boating industry, and Government agencies, both State and Federal, dedicated to safer recreational boating, publicize and observe National Safe Boating Week, and extend their effort throughout the year.

I also invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the United States to join in the observance of this week in order to draw nationwide attention to the importance of safety in recreational boating.

In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington this 12th day of February in the year of our Lord, and of the Independence of the United States of America the 188th.

LYNDON B. JOHNSON.

The proclamation clearly indicates the importance that the President attaches to boating safety.

SCOPE OF BOATING

To give you some idea of the tremendous scope of recreational boating, I should like to present a few figures:

Industry estimates that 38,390,000 persons participated in recreational boating during 1963, spending $2,581 million in retail purchasing for new and used boats, motors, accessories, fuel, safety equipment, insurance, docking, maintenance, launching, storing, repairs, and club memberships. That is very big business. They also estimate that 7,678,000 recreational boats are in existence and that there are 5,230 marinas, boatyards, and yacht clubs with waterfront stations in the United States. Our people are utilizing the inland waters, rivers, coastal waterways and Great Lakes systems to a greater extent than ever before. One of the greatest advantages of water recreational activities is that it does not cost anything to use our waterways. Water recreation is one of the few areas where enjoyment has not been dimmed by overtaxation or overregulation.

The safety aspects of boating are of steadily increasing concern to the U.S.

Coast Guard which is the Federal agency with primary responsibility for safety of life and property upon the water. Boating safety has drawn the attention of the Congress, the legislatures of every State, and of the press. Private organizations, such as those which support National Safe Boating Week, have been giving this subject greater emphasis each year.

When you consider the potential for accidents on the water it becomes immediately evident that we must continue our efforts in boating safety education.

The statistical report for calendar year 1963 was published on May 1, 1964, and it is my understanding that each Member of Congress received a copy. This report is a result of the Federal Boating Act of 1958 which directs the Coast Guard to compile, analyze, and publish information obtained on boating accidents. I would like to call your attention to several portions of the report. Compared with 1962, there was a decrease in the total of boats numbered but an increase in accidents. This could be attributed to duplication of numbering in the period from 1959 through 1962 which was corrected in reregistration during 1963. Also the small increase in accidents is probably due to better reporting rather than a real increase in the number of accidents. However, of concern is the high percentage of deaths caused by capsizing, which remains the same, 42 percent. The problem of capsizing includes such factors as boat design, operator education and law enforcement. It is not a problem that can be overcome overnight. However, the Advisory Panel of State Officials to the Merchant Marine Council of the Coast Guard has recommended the adoption of a safe loading capacity formula by the boating industry and the affixing of a safe loading plate to each motorboat. The formula to be used was developed through close consultation between representatives from the Coast Guard and boating industry. The capacity plate to be used will guide the boatowner as to the number of persons and amount of weight which can be safely carried in his boat. The States are being encouraged to enact legislation requiring the display of such a capacity plate on all motorboats. We are not considering proposals for Federal regulations because there are no provisions under the Motorboat Act of 1940 which would provide for such regulations. Also, it would be extremely difficult to provide the Coast Guard with appropriate legislation with the necessary speed. There is the further consideration that such regulations would apply only to the operators of those motorboats using navigable waters of the United States. We feel that the States are in a better position than the Coast Guard to regulate the manufacture and sale of motorboats which will be required to be labeled with a safe loading capacity plate.

PROGRESS IN THE FIELD OF RECREATIONAL BOATING

One of the most significant advances in recreational boating safety was the establishment of the Recreational Boating Safety Division at Coast Guard Headquarters on January 1, 1964. The Division is responsible for the coordination of all Coast Guard activities related to recreational boating. Previously these activities were divided between two offices at headquarters, education and enforcement in the Office of Operations and numbering, and equipment in the Office of Merchant Marine Safety. The responsibilities of this new Division are:

To direct the enforcement program applicable to recreational boating including plans for the selection, training, guidance, and deployment of enforcement personnel; supervise the Federal numbering of undocumented vessels; maintain liaison with Federal and State agencies having related interests, develop and coordinate arrangements and agreements with State governments for cooperation in the enforcement of State and Federal boating laws; develop boating accident reporting procedures and administer the program for compiling, analyzing, and publishing the data thus obtained, together with recommendations for the enhancement of boating safety. This is a very big job. But, it must be done. Pursuant to the Federal Boating Act of 1958 two additional States, Maine and Pennsylvania, enacted motorboat numbering laws which were approved by the Coast Guard in January of this year. This brings to 45 the number of States numbering undocumented vessels in accordance with the Federal system, plus the Virgin Islands.

On April 23, 1964, after close liaison with the Coast Guard and State boating law administrators, the Department of Transport, Canada, amended their small vessel regulations to grant reciprocity to U.S. pleasure boats operating in Canadian waters. U.S. pleasure boats now visiting Canada and equipped in accordance with U.S. Coast Guard regulations are considered to be in conformance with the Canadian regulations. Further, a boat brought into Canada by a U.S. tourist and not remaining in Canada need not have a Canadian license—number—or Department of Transport boat capacity plate, provided that the usual customs permit is obtained.

In October 1961, the Advisory Panel of State Officials to the Merchant Marine Council of the U.S. Coast Guard adopted the uniform waterway marking system which was subsequently endorsed by the Coast Guard. This system provides for the uniform marking of channels, posting of regulatory markers and information signs on nonnavigable waters of the United States and on those waters where the Coast Guard does not maintain aids to navigation to support the needs of the Armed Forces or commerce. To date this system has been adopted in 28 States, is pending in 7 and it is also being considered by 2 others. This is another of the remarkable accomplishments which has been brought about by continuing roundtable conferences between State boating authorities, the Coast Guard, the U.S. Army Corps of Engineers and other interested agencies and organizations.

The National Park Service, Department of the Interior has recently promulgated regulations governing water-use activities in the national park system which are intended to:

First. Establish uniform regulations for water-use activities throughout the Park Service and to insure their nationwide applications.

Second. Delete obsolete and imprecise regulations to permit maximum use of water resources.

Third. Parallel U.S. Coast Guard boating regulations pertaining to navigable waters.

Fourth. Provide for health, safety, and welfare of persons and property.

Fifth. Conserve and protect park values; and consolidate all Park Service boating regulations.

EDUCATION

Because the human element is by far the most important factor in safe boating the Coast Guard relies heavily on education and persuasion. Through its boating films, safety publications, auxiliary programs, and by utilization of the personnel assigned to the Mobile Boarding Detachments in public education activities the Coast Guard takes advantage of every opportunity to stress boating safety. When examining motorboats to determine compliance with the Federal requirements, which are after all only minimum standards for safety, boarding officers point out and explain all violations detected and any other unsafe conditions noted. Vessels observed to be operating in an unsafe manner are stopped and the operators are advised of the hazards involved and of their responsibilities.

The Coast Guard Auxiliary, as a civilian voluntary adjunct of the regular Coast Guard, was established by Congress in 1939 to promote safer and more efficient operation of motorboats and through their programs, foster better compliance with recreational boating laws and regulations. In addition to public instruction and courtesy motorboat examination programs, auxiliarists participate in the patrol of regattas, emergency operations in times of distress for or with the Coast Guard. Auxiliary operations are always on a voluntary basis.

The auxiliary has continued to expand its public service while at the same time maintaining its high quality. There are presently 791 flotillas located in 644 communities throughout the Nation and the Commonwealth of Puerto Rico. At the end of 1963 membership was 22,109, of which 7,423 were qualified to perform courtesy motorboat examinations. In 1963 the auxiliary was credited with saving 306 lives, with assisting in 6,017 distress cases, and with patrolling 2,474 races and regattas. In addition this organization conducted 165,461 courtesy motorboat examinations and facility inspections, instructed 136,353 in safe boating practices and showed boating safety films to audiences totaling 2,712,414.

The reputation of the Coast Guard Auxiliary for its efficiency in the examination of pleasure craft is such that the decal issued by the auxiliary is officially accepted in 41 States as evidence of compliance with the State boating laws. Usually boats displaying this decal are not stopped and examined by the Coast

Guard or by enforcement personnel in these 41 States.

LAW ENFORCEMENT

Law enforcement is, to a degree, supplementary to the educational program. The explosive growth of recreational boating since the late 1940's, the advent of boat trailers and the development of water recreation areas throughout the Nation continue to overtax law enforcement resources, both Federal and State. Since the personnel to fully enforce the boating laws are insufficient and in many cases inexperienced, measures are being developed to best utilize those available. The Coast Guard is working closely with the States and other Federal agencies to train enforcement officers with a view toward uniformity in enforcement.

During 1963, the Coast Guard mobile boarding detachments trained 3,822 Coast Guard personnel and 995 State and local enforcement officers. Not only does this training provide for uniform enforcement, it also fosters closer cooperation between the various jurisdictions. It is not unusual to see the Coast Guard and the local deputy sheriffs working hand in hand in areas where a concentrated effort is required. In other areas safety patrols are closely coordinated by the various agencies to avoid duplication of effort and harassment of the boater.

One of the most effective and efficient safety patrol measures carried out by the Coast Guard is its mobile boarding program. These safety patrols, recently reduced to three men each due to limited operating funds, are equipped with a truck, boat, and trailer. The boat and vehicle also employ two-way radios for coordination of law enforcement and rescue activities. During 1963, these 35 teams operated in 44 of the 50 States. Of the six States in which the teams did not operate four of them have adequate coverage by permanent Coast Guard units, the remaining two, New Mexico and Kansas may be visited by these teams when the need for such activity is indicated.

During the past year the Coast Guard boarded and examined 203,701 motorboats. The mobile boarding detachments alone boarded 104,269 motorboats citing 36,762 of them for violations. In addition to the safety patrol and law enforcement training performed by these units, they were utilized in public education programs, factory inspection of Coast Guard approved life saving devices, flood relief details, and the patrol of regattas. When you note that all of this work was performed by only 120 enlisted men operating independently in remote areas with a minimum of supervision you must give them a deserved "well done." They have generally been enthusiastically received by the public for the resulting safer conditions in spite of the high percentage of violations cited. However, they are limited in number and time. We have, therefore, had to refuse many requests for more frequent visits by these detachments.

FUTURE PLANS, NEEDS, AND PREDICTIONS

Many new water areas have been developed or are being planned, and we expect that boating activities with their attendant problems will continue to increase. Future planning in safety education and law enforcement will require the continued cooperation and effort of all those having a responsibility in these fields.

Boating educational organizations, such as the Coast Guard Auxiliary, the U.S. Power Squadrons, the American Red Cross, and the Boy Scouts of America, must not only continue their present fine efforts but will need to expand them. In this connection, the education of schoolchildren by certain State agencies and other organizations is a program designed to pay both immediate and future dividends.

The number of law enforcement officers should be increased. Also, to fully utilize available enforcement personnel—both Federal and State—a program, under section 9 of the Federal Boating Act must be initiated. This section specifically encourages agreements and other arrangements between the Coast Guard and various States in law enforcement. This would, among other things, permit the efficient deployment of personnel and facilities and minimize the possibility of duplication.

As previously mentioned, 45 States have federally approved numbering systems. We believe that public demand will cause the remaining five States to enact the necessary boating laws within the next few years.

Progress in boating safety has been rapid since the enactment of the Federal Boating Act, but it will need the unflagging efforts of Government, business, and private organizations, and, above all—the boating public if this progress is to continue.

NATIONAL SAFE BOATING WEEK

This year National Safe Boating Week, which includes the Fourth of July period, will begin on June 28. As the motto for this week we should all join in saying—"Let's stress safe boating the whole year around."

The continued success of this annual observance is particularly gratifying to the Coast Guard and to its civilian affiliate, the Coast Guard Auxiliary, as well as to the many others who have supported this event.

This year the National Safe Boating Week Committee has done an excellent job of promoting and coordinating this event. This committee includes representatives from: the U.S. Coast Guard, the U.S. Coast Guard Auxiliary, the American Boat and Yacht Council, the American National Red Cross, the Boy Scouts of America, the Girl Scouts, the National Association of Engine and Boat Manufacturers, the American Powerboat Association, the National Safe Boating Association, the National Safety Council, the Outboard Boating Club of America, the U.S. Power Squadrons, the Yacht Safety Bureau, the American Water Ski Association, and the Young Men's Christian Association.

This program focuses nationwide attention on the problems of boating safety and helps to implant safety principles that will be lifesavers during the week, the boating season, and the lifetime of many boating enthusiasts.

To all those national and local committees actively participating in National Safe Boating Week, I extend my congratulations. I urge all other individuals and organizations interested in boating safety to join in making this, in 1964, the most effective National Safe Boating Week we have ever observed.

JOHN C. BEUKEMA: MUSKEGON'S "MR. SEAWAY"

The SPEAKER. Under previous order of the House, the gentleman from Michigan [Mr. GRIFFIN] is recognized for 15 minutes.

Mr. GRIFFIN. Mr. Speaker, in June, 1959, Queen Elizabeth II and President Eisenhower participated in colorful ceremonies at Montreal which marked the official opening of the St. Lawrence Seaway.

The fifth anniversary of that historic occasion, which dramatized a great new venture in United States-Canadian cooperation, will be observed in a memorable way on Saturday, June 27, when dignitaries from both nations gather for an anniversary luncheon at Muskegon, Mich.—a luncheon which will highlight the fourth annual Greater Muskegon Seaway Festival.

At that time, the thriving, growing port of Muskegon will tip its hat and pay tribute to a number of distinguished Canadians and Americans who have played significant roles in the long struggle to transform the dream of an eighth sea into reality.

None will deserve that honor more than Muskegon's own "Mr. Seaway," John C. Beukema.

In its way, the anniversary luncheon will serve as a special tribute and a richly deserved testimonial to this man from Muskegon whose vision, dedication, and strength of purpose have had a profound impact upon the trade routes of the world.

Five years ago, when the date for the official seaway opening was drawing near, Charles H. Woodruff wrote eloquently in the Muskegon Chronicle about the role of John Beukema:

> The record of his experiences in the long * * * struggle to secure the seaway legislation is an absorbing account, filled with fact, color, and interest.
>
> But there is more to be told.
>
> The spaces between the lines beg another story; one of almost unexampled devotion to a cause; of fortitude to bear ridicule; of courage to fight on after defeats which wilted the zeal of other men, and of a physical drive and stamina which shames men half his age.
>
> Now that the seaway is reality as the direct result of the second greatest engineering feat of all time, it is important to remember that the old shallow-draft channels would be there today but for what was undoubtedly the longest and most tenacious selling job in the national history.
>
> Through the administrations of seven U.S. Presidents, Mr. Beukema served as master salesman for the project in Michigan, in the Great Lakes States, in Washington, D.C., and even in the violently opposed East.
>
> The difficulties of this selling job can be readily appreciated when it is noted the seaway program was supported by every American President from Harding to Eisen-

hower, but was beaten down by organized congressional opposition in every case until that signal day in May (the 6th) of 1954 when the House voted the long-sought approval.

The conviction which prompted and sustained this epic fight stemmed from Mr. Beukema's love of his home community and his dreams for its future greatness. He has worked tirelessly at building Muskegon in many posts and capacities in a wide variety of fields.

His many successes in these efforts brought him deserved community honors in September 1953, when he retired as secretary-manager of the Greater Muskegon Chamber of Commerce after 31 years. This service span of three decades saw many advances in making the Muskegon community a better place for living, industry, and commerce.

His achievements in the work of attracting industry to Muskegon, in rebuilding and encouraging existing industry and in bringing about needed diversification have been many times recognized. Similarly, his work in other fields; for youth, for the war effort, for tourist and resort business, banking needs, and cultural and social endeavors.

He has served as member and officer on more than 25 local boards, and continues this work in retirement. And he has served on an equal number of boards, organizations, and committees on the State and National level, including many years as a charter member and chairman of the State civil service commission.

Along the way he served as member, and most often as chief officer, of virtually every harbor and shipping association representing the Great Lakes. Among them were the Michigan Tidewater Commission (secretary), Great Lakes Harbors Association (thrice president), National Seaway Council (chairman of its executive committee), World Trade Advisory Council, and many others. He has continued work with these associations in retirement and is currently lay counsel to the Harbors Association.

The chief (and richly deserved) honor came in August 1954, 3 months after Congress approved the seaway bill, when President Eisenhower named Mr. Beukema to the five-member St. Lawrence Seaway Advisory Board, placing him at the policymaking level for the greatest marine undertaking ever attempted by the Federal Government on the North American Continent.

The appointment came as no surprise to Muskegon or to Mr. Beukema's associates, but, characteristically, it found him almost incapable of recognizing that the efforts he had expended for so many years in behalf of the waterway program had found cognizance at the national level.

Mr. Beukema led a difficult battle and never lost his optimism despite numerous crushing defeats. Time and again he saw his brightest hopes smashed through the powerful lobby tactics of the seaway's opponents.

He was sustained in this by a great dream of what his community could become as a world port on what now, in effect, is the earth's eighth sea. This dream is now taking on form and substance.

Over the years, John Beukema found that the principal ingredient in the formula for success is hard work. A bit of verse by James Whitcomb Riley has been a long-time favorite; it goes like this:

Ef you want something, and just dead-set
A-pleading for it with both eyes wet,
And tears won't bring it—why just try sweat
As my uncle ust ter say.

Now, at 75, Muskegon's "Mr. Seaway" is entitled to relax and look back with considerable pride and personal satisfaction upon a long record of distinguished public service. But, as his many friends and associates well know, John Beukema finds little time for looking back. When he takes a bow at the anniversary luncheon on Saturday, he will be looking forward into the future. So much remains to be done and, as always, John Beukema continues tirelessly, doing more than his share, planning and working in many causes to build a better tomorrow.

A grateful community, as well as his State and the Nation, have good reason to pause on Saturday and salute Muskegon's "Mr. Seaway," John C. Beukema, a great American.

SELECTIVE SERVICE—THE NEED FOR COMPREHENSIVE REVIEW AND CORRECTION REMAINS

The SPEAKER. Under previous order of the House, the gentleman from New York [Mr. HALPERN] is recognized for 20 minutes.

Mr. HALPERN. Mr. Speaker, I was interested to read in the newspapers on Monday that the Department of Defense is augmenting and intensifying its planned review of the Nation's manpower policy.

I have stated before that a vigorous analysis is long overdue. The widespread inadequacies and inequities of the draft as it is administered nationwide need immediate attention. Despite certain encouraging signs that the Defense Department is now prepared to give the matter the high priority which it has long demanded, military manpower policy falls directly within the responsibility of the Congress.

I still feel that the provisions of my bill, H.R. 10211, are applicable and I urge that the House enact such legislation. The Congress has the responsibility to ensure that selective service functions both efficiently and equitably. I have spoken before of the inconsistencies which flaw the program. These tend to corrupt the principles and purposes of the system. I think it is equally true that the system presently works counter to the interests of the military services.

The problems of establishing and maintaining a massive and strong-willed fighting force in peacetime are manifold. It is never an easy matter. The currents of opinion run in many directions. Philosophically, the trend toward easing of world tension, and the instinctive bent of the American mind which abhors war, constitutes a force around which it is difficult to build an effective rationalization for universal mandatory training.

Yet, it is remarkable and praiseworthy that the American people have always responded with good will and firm intent when demands were made upon individual liberty to protect the peace. I am confident that we shall continue to sacrifice as long as the demands are rational and legitimate.

And this is the point. It is up to us, here in the Congress, to ascertain through the legislative process whether the draft is necessary to the national security, and if so, how it is to be administered and regulated.

I am not sure that we can ever expect a program of this nature to be absolutely faultless. What we can do to make it responsive both to military needs and public expression.

To balance these two prerogatives is the responsibility which we cannot shirk. Very often, in real terms, military contingencies conflict with public demands. It is because the military must meet certain criteria which others consider inappropriate or simply cannot understand. It is, basically, the situation of a military establishment subject to popular will.

This is as it should be. I am not arguing against this fundamental principle of democratic government. But it does enlighten us as to the perhaps inherent conflict of interest which arises in peacetime.

Thus, it should be our objective to formulate a manpower policy which reflects both popular acceptance and professional military needs. It is my contention that the administration of the draft does neither.

The first point to be stressed is that although officials of the Defense Department look upon conscription as urgently necessary to meet American commitments and security goals, it is doubtful whether the Army is receiving the unit benefits which should accrue. We must be sure that we understand why the draft exists. It exists because the Nation, as determined by the Government needs to maintain a force level approximating 2.7 million men. And the only reason for maintaining this establishment is to protect the peace and, if necessary, to wage war.

These are fundamentals which too often are lost in heavy oratory. I am not concerned here with whether or not the force determination is correct relative to the exigencies of the national security. I leave that for another time.

The point is that an Army is raised to protect our interests and meet the actuality of war. Without this legitimization, the military budget, the arms arsenal, and the draft lose their justification.

Thus it follows that conscription cannot be rationalized unless it meets a set of military criteria. The draft is acceptable only if it is militarily legitimate. And I am not confident that the Army and those who administer the draft recognize this obligation.

If the draft is to be made respectable, it must be militarily coherent. If it is to be a challenge to our youth, it must be militarily valid. If it is to be a worthwhile experience, it must be militarily legitimate. If it is to constitute a willing fulfillment in service to the Nation, it must be militarily demanding.

The fact is that the vast majority of young men called upon to give service today believe that their service is fraudulent. It does not constitute a challenge. In most cases it will not become worth while. For these reasons, it is not respectable. There is serious doubt that military training today, particularly its primary phase, can produce a soldier prepared and disciplined in the art of combat.

I repeat that military training can become valid for the individual soldier only when it is valid militarily. The way toward a legitimate incentive is to make

military training a challenging and worthwhile experience.

It is important to emphasize these factors because they are the fundamentals. All other considerations flow from them. The draft becomes fraudulent and unworthy unless the Nation realizes to the full the ingredients of combat capability which is intended. Because this underlying condition is not being met, the operative principles become corroded by inefficient and inequitable administration.

The evasion mentality is encouraged not only because thousands are able to find an escape hatch, but because it is generally believed that service is a militarily meaningless and undemanding irritant.

Approximately 50 percent of those reaching the age of 26 will never serve actively. The figures reflect a costly enterprise—80 percent of the draftees, and 73 percent of the enlistees, are departing the service after their first tour of duty. The skills and specialties which have been taught are lost. The result in the Army is a constant and disruptive turnover of personnel which would subject any private organization to utter turmoil. Quality becomes a steadily receding potentiality.

I have before me some interesting statistics which were published by the U.S. Continental Army Command at Fort Monroe. I ask unanimous consent that this report on reenlistments, showing results of a questionnaire circulated in May and June of last year, be inserted in the RECORD following the conclusion of my remarks.

The data represents a random opinion taken among 625 Army servicemen. Among those who chose reenlistment, retirement benefits and security were the prime motivating factors. Prestige rated very low; only 7 of the 369 reenlistments seemed to like their duty.

A mere glance at these figures will indicate that we are not composing a challenge to the youth of this country. From a military standpoint, it can be questioned whether those who remain in the service are doing so for the right reasons.

Low pay was the principal reason given for those electing separation.

I hope the discussion here will help in evaluating the need for revision of the draft laws. On previous instances I have touched upon the widespread unfairness and inefficiency of the system. This in itself is a source of the low depths to which mandatory military training has sunk in the public mind. Today I am emphasizing that another primary source of disaffection rests with the training and military experience itself. Concomitantly, it will serve no purpose to make the administration of the laws more equitable without strengthening the fabric of military education where the main incentive must be centered.

I think it is judicious to look forward to the time when manpower requirements can be met by voluntary enlistment. We can learn from the Canadian practice, as the esteemed Senator from New York [Mr. KEATING] has suggested. Certainly the Army could perform its function for the better if its forces were voluntarily recruited.

But it is pertinent to reiterate that the Army cannot attract men appropriate to its mission unless it offers a worthy challenge to the courage and vision of the individual person. Military service is a professional occupation. If it can appeal in this vein, it can expect quality and brilliance and valor commensurate with its historic standing as a high profession of men.

This is why I have stated emphatically that correction of the draft practices, and the potential of a fully volunteer force, rests with making military service a respectable experience. It is, rightly, a matter of pride to our young men who are called upon to render service. If the obligation is valid in military terms, the service will be justified in personal terms.

Mr. Speaker, I ask unanimous consent to include the material referred to earlier at this point in the RECORD:

STATUS REPORT—REPORT OF ENLISTED PERSONNEL SEPARATED AND REENLISTED, USCONARC FORM 170–R (TEST)

1. During May 1963, 625 questionnaires were received in accordance with CON. Reg. 612–202, dated January 23, 1963. Of these, 256 were separations and 369 were reenlistments.

2. Information compiled from the forms is shown below:

(a) Reenlistments and separations by category:

	Total number separated	Total number reenlisted	Percent reenlisted
1st term, Regular Army	283	97	34.3
Career Regular Army	335	272	81.2
AUS inductees	7	0	0
Army reservists and National Guard men	0	0	0
Total	625	369	59.0

(b) Primary reason for reenlisting:

	Frequency reason given				
	1st termer	Career RA	AUS	USAR and NG	Total
Retirement benefits	16	160	----	------	176
Security	13	34	----	------	47
Likes military life	12	31	----	------	43
Patriotism	5	14	----	------	19
Travel	9	4	----	------	13
Likes duty	3	4	----	------	7
Education opportunities	16	8	----	------	24
Options available	3	0	----	------	3
Wife's influence	2	5	----	------	7
Training available	9	2	----	------	11
Pay	1	1	----	------	2
Fringe benefits	0	0	----	------	0
Likes assignment	1	2	----	------	3
Promotion potential	2	2	----	------	4
Prestige	2	0	----	------	2
Esprit de corps	0	0	----	------	0
Housing	0	0	----	------	0
Other	3	5	----	------	8
Total	97	272	0	0	369

3. Information on those individuals who did not reenlist shows:

(a) Separations by category:

First term, Regular Army	186
Career, Regular Army	63
Army of the United States inductees	7
Army Reservists and National Guard	0
Total	256

(b) Primary reasons for not reenlisting:

	Frequency reason given				
	1st termer	Career RA	AUS	USAR and NG	Total
Low pay	33	11	2	------	46
Better civilian opportunities	26	6	1	------	33
No taste for military life	17	2	2	------	21
Lack of personal freedom	12	0	1	------	13
Harassment in the unit	11	3	1	------	15
Leadership in the unit	6	3	0	------	9
Wife objects	8	5	0	------	13
Civilian job waiting	16	6	0	------	22
Civilian college acceptance	8	7	0	------	15
Promotion policy	14	9	0	------	23
Dissatisfied with assignment	6	3	0	------	9
Skills not utilized	8	2	0	------	10
Personal problems	8	1	0	------	9
Would be sent overseas	3	2	0	------	5
Housing situation	2	0	0	------	2
Fringe benefits	0	1	0	------	1
Not kept informed	0	0	0	------	0
Options not available	0	0	0	------	0
Other	8	2	0	------	10
Total	186	63	7	------	256

(c) Secondary reason for not reenlisting:

	Frequency reason given				
	1st termer	Career RA	AUS	USAR and NG	Total
Low pay	19	8	1	------	28
Better civilian opportunities	23	3	0	------	26
No taste for military life	19	0	1	------	20
Lack of personal freedom	16	9	0	------	25
Harassment in the unit	19	4	1	------	24
Leadership in the unit	9	2	0	------	11
Wife objects	2	1	0	------	3
Civilian job waiting	7	1	1	------	9
Civilian college acceptance	0	0	0	------	0
Promotion policy	21	14	1	------	36
Dissatisfied with assignment	9	4	0	------	13
Skills not utilized	11	4	1	------	16
Personal problems	6	1	0	------	7
Would be sent overseas	1	2	0	------	3
Housing situation	0	0	0	------	0
Fringe benefits	0	0	0	------	0
Not kept informed	1	1	0	------	2
Options not available	0	0	0	------	0
Total	163	54	6	------	[1]223

[1] Some individuals gave only 1 reason for not reenlisting.

(d) Third reason for not reenlisting:

	Frequency reason given				
	1st termer	Career RA	AUS	USAR and NG	Total
Low pay	12	2	1	------	15
Better civilian opportunities	19	5	0	------	24
No taste for military life	11	3	0	------	14
Lack of personal freedom	16	2	2	------	20
Harassment in the unit	11	4	0	------	15
Leadership in the unit	15	5	0	------	20
Wife objects	1	3	0	------	4
Civilian job waiting	5	3	0	------	8
Civilian college acceptance	1	0	0	------	1
Promotion policy	10	4	0	------	14
Dissatisfied with assignment	7	1	0	------	8
Skills not utilized	7	1	0	------	8
Personal problems	8	0	0	------	8
Would be sent overseas	5	2	0	------	7
Housing situation	0	3	0	------	3
Fringe benefits	0	0	1	------	1
Not kept informed	1	1	0	------	2
Options not available	7	1	0	------	8
Other	0	0	0	------	0
Total	3	1	0	------	4
	132	40	4	0	[1]176

[1] Some individuals gave only 1 reason for not reenlisting.

4. Conclusions:

(a) Retirement benefits and security influence more Regular Army careerists in their decision to reenlist than any other reasons. The first termer was influenced mostly by retirement benefits and educational opportunities available in the Army.

(b) Present pay rates and the belief that civilian opportunities are better are the two prime reasons for not reenlisting.

A SIGNIFICANT NEW PLAN FOR FIGHTING URBAN BLIGHT AND DECAY SUGGESTED BY DELAWAREAN

The SPEAKER. Under previous order of the House, the gentleman from Delaware [Mr. McDOWELL], is recognized for 30 minutes.

Mr. McDOWELL. Mr. Speaker, a significant new plan for fighting urban blight and decay was suggested by Lawrence Schein, research director of the Community Services Council of Delaware, at a June 18, 1964, meeting in Wilmington, Del., of the Inter-Agency Planning Committee made up of representatives of agencies engaged in physical and social planning in Delaware. According to a report in the Wilmington (Del.) Evening Journal, June 19, Mr. Schein said the Greater Wilmington Development Council might buy up blocks of marginal houses, fix them up and rent them at low profit margins, giving tenants the option to buy. He pointed out that the Woodlawn Trustees have been renting houses at very low rates and keeping them in good repair for many years. He said he believed there are hundreds of these houses in Wilmington. Homeownership in blighted and decaying areas should be encouraged, he said, as a way of creating middle class values and responsible community spirit.

Mr. Schein also suggested, according to the Evening Journal, a human relations clinic for landlords who persistently violate housing laws. He said housing courts could require attendance at seminars where landlords could learn to deal with tenants in ways to get the best cooperation. Mr. Schein suggested the reimposition of rent control as a possibility; and assessment on the basis of profits derived rather than the value of the property which, he said, discourages improvements.

The Evening Journal report stated:

Some low-cost housing should be built in Poplar Street project A, [Mr.] Schein said, to make it possible for Negroes to live there. He said Negroes feel they were deceived when their houses were taken away with no opportunity to move back.

The Washington (D.C.) Post in its June 17 issue reported that Mrs. Robert H. Jacobs, Jr., author of "The Death and Life of Great American Cities," was guest speaker at Mrs. Lyndon B. Johnson's fifth monthly Women Doers luncheon on June 16 at the White House. President Johnson dropped by to shake hands with each of the guests and to "give a special greeting" to Mrs. Jacobs. Mrs. Jacobs told the women leaders present that the federally aided urban renewal programs which shunt poor people and Negroes out of their homes and accustomed neighborhoods are a "cause for worry."

As if to underscore this point the Washington Post reported that 200 top east coast specialists on city design, attending a recent 2-day conference at Harvard University's Graduate School of Design, declared that the low-income housing efforts of the Federal urban renewal program have been a "complete failure" to date.

Mr. Speaker, the labor movement of our Nation is also deeply concerned over the failure to provide low-income housing, and supports the national housing policy which calls for providing as soon as feasible decent, safe, and sanitary housing for every American family. I commend the United Steelworkers for the new pamphlet, "Citizen Action for Housing and Urban Renewal."

Mr. Speaker, President Johnson has called on Congress to wage war on poverty, and has called attention to the central cause and effect of poverty: the ill-housed conditions of literally millions of our fellow citizens. The President is right in saying that the war on poverty must rehouse our fellow citizens who are living in homes of such poor condition that their health and safety is endangered.

I have recently introduced a bill to amend the National Housing Act to provide special assistance for low- and middle-income families. My bill, H.R. 10251, amends section 305 of the National Housing Act to provide that the Federal National Mortgage Association shall exercise its special assistance functions by purchasing mortgages on single-family dwellings for low-income families insured under section 221(d)(2) of such act in order to provide housing for slum dwellers who are not being provided decent, safe, and sanitary housing under the present Federal urban renewal program. That program has provided luxury apartments, and prime office space, but has done little to provide housing for low- and middle-income families, either in our major cities or our small towns and rural areas.

I said on March 11, in the CONGRESSIONAL RECORD, pages 4952–4954, in explanation of my bill, and I repeat here, that I am convinced that my bill, H.R. 10251, will, if adopted, make a major contribution to providing decent, safe, and sanitary housing for our low- and moderate-income families under private enterprise.

I hope the House Special Housing Subcommittee will approve it since it meets a critical need recognized by the Congress in the Housing Act Amendments of 1961, but which the Congress did not adequately provide for.

We would all agree with President Johnson that the perpetuation of poverty in our rich Nation is disgraceful and subversive of our great ideals.

In his testimony before the House Special Housing Subcommittee, FHA Commissioner Philip N. Brownstein justified the provision of vacation houses in the Housing and Community Development Act of 1964 on the grounds that there is a heavy demand for such housing, that we are already a two-automobile-per-family economy, and we are rapidly becoming a two-home-family economy, and, further, that the provision of vacation homes "will stimulate the economy as well as provide a mechanism for the more affluent of our society to get some of the better things that are available."

A housing act which provides vacation homes for the more affluent of our society and does not provide clean, safe, and sanitary housing for low- and modest-income families cannot be justified.

The effect of my amendment would be to authorize the Federal National Mortgage Association to purchase mortgages insured under the FHA section 221(d)(2) program to the extent of $220 million after the date of the enactment of the Housing and Community Development Act of 1964. The total amount of purchases and commitments authorized would not exceed $220 million outstanding at any one time.

The February 3, 1964, issue of the Washington World magazine carried an article on a program which is reclaiming and improving homes in slum and blighted areas in Indianapolis, Ind. The article dealt with a new concept of private enterprise which is enabling families with incomes ranging from $3,000 to $3,800 to create their own capital by applying their own work and desire for a new home to the improvement and reclamation of rundown neighborhoods.

The novel experiment in Indianapolis, which is comparable in its results and objectives to the proposal made by Lawrence Schein of the Community Services Council of Delaware, is a joint project of three cooperating organizations, Flanner House Homes, Inc., which acts as a major contractor, Flanner House, a settlement house, and the Board of Fundamental Education.

According to the published account in Washington World magazine:

Homeowners replace slum dwellers, the city is cleaned up and relations of the community cemented. Families now have the opportunity to be an actual part of the construction of their new homes, to earn 25 to 36 percent of the value of their home by this initiative investment. The men learn valuable skills while on the job. The women and children, stimulated by the thrill of the project, seek to improve their furnishings. Upholstery and sewing classes, tools and equipment are supplied as a part of the homebuilding program.

I include as part of my remarks the article from the Washington World of February 3, 1964, and the article from the June 19, 1964, issue of the Evening Journal, of Wilmington, Del., on the significant new proposal advanced by Lawrence Schein, research director of the Community Services Council of Delaware. I also include an excerpt from the excellent new pamphlet, "Citizen Action for Housing and Urban Renewal."

[From the Washington World magazine, Feb. 3, 1964]

SELF-HELP HOMES REPLACING SLUMS

A new concept of private enterprise—enabling the individual to create his own capital by applying his own work and his desire for a new home—is one answer to the problem of blighted neighborhoods.

In Indianapolis, Ind., where it's been done successfully, the project is labeled "team-based, guided, self-help homebuilding." In other cities across the country, it's known by other names, but the effect has been the same—to replace slums with new homes for low and marginal income families.

Flanner House Homes, a nonprofit organization, acts as the major contractor for the program. Homeowners replace slum-dwellers, the city is cleaned up and relations of the community cemented. Families now have the opportunity to be an actual part of the construction of their new homes, to earn 25 to 36 percent of the value of their home by this initiative investment. The men learn valuable skills while on the job. The women and children, stimulated by the thrill of the project, seek to improve their furnishings. Upholstery and sewing classes, tools and equipment are supplied as a part of the homebuilding program.

Families who wish to participate are selected by minimal requirements: an income of $3,500 to $3,800, enough financial stability to handle the mortgage payments and support of their families, and health enough to work an additional 20 hours a week.

Each builder receives a box of tools, schedules his workweek and is assigned to a work team. Each man in each team is trained for a specific job and performs that job on all homes in the community in return for the work of others on his own home. All the homes are finished at the same time and all the families move in simultaneously.

The Indianapolis program had its trial and error period and the first house took over 5,600 man-hours and cost $17,000. Since that time the process has been reduced to 900 man-hours at a cost of $14,000 or less. This very successful program has completed homes for 331 families with an initial investment of $200,000 in the 13 years since its inception and has added nearly $5 million to the city's tax revenue.

But most important is the psychological and social impact on the people and the community. They have developed valuable skills which make home maintenance much more a matter of ease and determination and there is increased fellowship and mutuality of interest in the community.

[From the Wilmington (Del.) Evening Journal, June 19, 1964]

HOMEOWNERSHIP PLAN SUGGESTED FOR SLUMS

Homeownership in slum areas should be encouraged as a way of creating middle-class values and responsible community spirit, a social worker said yesterday.

Lawrence Schein, research director of the Community Service Council of Delaware, made the suggestion yesterday at a meeting in the YMCA of the Inter-Agency Planning Committee, made up of representatives of agencies engaged in physical and social planning in the State. He elaborated on his remarks in an interview this morning.

Yesterday's meeting was not held to make decisions or to adopt programs, merely to exchange ideas.

Schein said the Greater Wilmington Development Council might buy up blocks of marginal houses, fix them up and rent them at low-profit margins, giving tenants the option to buy.

He said the Woodlawn Trustees have been renting houses at very low rates and keeping them in good repair for many years. He said he thinks there are hundreds of these in Wilmington.

Schein also suggested a human relations clinic for landlords who persistently violate housing laws. He said housing courts could require attendance at seminars where landlords would be exposed to basic anthropology and what science says about racial differences.

Sociology, the history of minority groups, the role of poverty and the difficult housing conditions many groups face would also be taught, he said, so landlords could see tenants as human beings and deal with them in ways to get the best cooperation.

The importance of simple observance of the law would also be stressed, he said.

The poor aren't poorer here than anywhere else, Schein said. They just stand out more here against a background of great wealth.

Schein suggested possible reimposition of rent controls and assessment on the basis of profits derived rather than value of the property which discourages improvements.

Some low-cost housing should be built in Poplar Street Project A, Schein said, to make it possible for some Negroes to live there. He said Negroes feel they were deceived when their houses were taken away with no opportunity to move back.

CITIZEN ACTION FOR HOUSING AND RENEWAL

This is the third pamphlet in a series about housing problems for the United Steelworkers of America. Comments and questions may be sent to Roland M. Sawyer, housing consultant, United Steelworkers of America, 1500 Commonwealth Building, Pittsburgh 22, Pa.

Although the boards of housing authorities and urban renewal agencies commonly have a union member or two, most commissioners represent the upper income brackets. They have established a remarkable record for integrity and for civic spirit (no commissioner gets paid).

But when they make decisions affecting thousands of lives, these men and women tend to think in terms of what's good for the town, and many of them are persuaded that what's good for private business is very good for the town.

For example, the largest corporation in one city needed more space. The plant was wedged between a river and a slightly blighted residential section. It happened that an officer of the corporation was chairman of the local redevelopment authority. Result: A five-block area was turned into a $1,400,000 urban renewal project, and the corporation got the section it needed for about one-fifth of the actual cost. It was a perfectly clean transaction. Both the corporation and the community stood to gain. The only losers were the families who got evicted.

One forthright official of a redevelopment agency made this private comment:

"You get into public service, and after a few years you start acting like it's your own private business. You tend to lean on the advice of advisory committees which think the same way you do. You don't feel obligated to explain a specific project to the people living in the area. Some of these people have been living there for 20 or 30 years or longer. Yet nobody considers it important to tell them exactly why their houses are going to be torn down, and precisely when they should move.

NOT UNLESS THEY ORGANIZE

"Imagine, if you can, an urban renewal agency run by people from blighted areas. So one day a big shot banker reads in the morning paper that his estate has been included in an urban renewal park project. You know what would happen—he would call the mayor and raise hell, and the mayor would say it must have been a mistake and he would personally see to it that the plans were changed. And they would be. Now the janitor's 25-foot lot may be just as important to him as the 10 acres are to the banker, but is the mayor going to listen to Mike Murphy or Jesus Gonzales or any other poor devil from the slums? Not unless they organize and march on city hall."

The building of low-rent housing and the clearance of blighted acres have become new roles of government in the United States. But the old responsibility of government remains: To heed the petitions of citizens. The responsibility of citizens is to speak out so clearly that every government official can hear them.

The citizens have not always done so. The problem of middle-income housing is a pertinent example. Millions of families have too much income to qualify for low-rent public housing—but not enough to afford good private dwellings. Congress knows this. The Housing and Home Finance Agency knows it. Everybody knows it, especially the real estate industry, which doesn't want the Government to enter the middle-income field. So, for a quarter of a century, Congress has shut its eyes to the need for middle-income housing. A few concessions have been made, but there is still nothing that could be called a real program. And there won't be—until the citizens resolutely demand it.

CITIZENS IN ACTION

Nothing redevelops a governmental bureaucracy more effectively than a rebellion of the citizens.

In New York City, the dictator of urban renewal for many years was Robert Moses. A local saying was "Man proposes, Moses dispossesses." Block after block of housing was leveled as the bulldozers kept rolling along. Protests were muffled and protestants were muted by the collapsing walls.

One of the choicest sections of Greenwich Village caught Moses' eye. This was an area just south of Washington Square, where old tenements and a few modern apartment houses backed up on a green strip extending for the full length of a long city block. It was like a hidden park. Nearby on Macdougal Street were the coffee houses, shops, and restaurants that have attracted hundreds of thousands of tourists. Moses decided that all of these old-fashioned buildings should be demolished and something more sanitary erected.

FAREWELL TO MOSES

The old structures are still standing, but Moses is no longer redeveloping. What happened was that the people revolted. They didn't know that you can't fight city hall, so they went ahead and fought and won. The urban renewal scheme was junked.

Something entirely different happened in Philadelphia. The redevelopment authority and the planning commission wanted to save a neighborhood that was going downhill fast. There were 1,050 dwellings in the 67-acre Morton project on Germantown Avenue. For decades the neighborhood had been racially integrated, with Italians and Negroes predominating. The Italians had no wish to abandon the fig trees, the grapevines, and the flowers they had tended for years. The Negroes knew there were few good neighborhoods where they would be welcome.

So, instead of leveling the whole area, the redevelopment authority carefully selected the worst structures—about one-fifth of the total. After they were demolished, the housing authority built small clusters of two-story, low-rent dwellings, designed to harmonize with the neighborhood. The existing industries were allowed to remain, since they employed many of the residents.

Louis Sauer, an architect who could see values in old things as well as new ones, was hired by the redevelopment authority to help the residents improve their shabby properties.

"I met with 10 owners at first and asked them what they wanted," he recalls. "We discussed the front of the houses and the backyards. The rear was a mess of junk and trash on a steep upward slope. I had hoped to get rid of the fences dividing the narrow lots and have a clear sweep, but the owners didn't want that. The fences remained. If you ask people to give you a mandate, you have to accept it."

THE PEOPLE ARE STILL THERE

The Morton project isn't finished yet. Blight hasn't been eradicated. But people haven't been eradicated, either. The families who have felt comfortable in the neighborhood for many years are feeling a bit more comfortable today. If there is any better test of the value of urban renewal, the people in Philadelphia haven't heard of it.

All over the Nation today thousands upon thousands of houses are being demolished because an urban renewal agency thinks it would be better to have high-rise and high-rent apartments, or because a highway engineer wants to let more people drive downtown to hunt for parking space. Almost any proposed new use is considered more important than the ancient function of sheltering a family. And so people are evicted to make way for supermarkets and speedways. When citizens organize to assert their equality with automobiles and apartment houses, urban life will become sweeter.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. SCHADEBERG (at the request of Mr. JOHANSEN), for today and the balance of the week, on account of attendance at House Committee on Un-American Activities in Minneapolis.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. CHAMBERLAIN (at the request of Mr. HARVEY of Michigan), for 30 minutes, today.

Mr. GRIFFIN (at the request of Mr. HARVEY of Michigan), for 15 minutes, today.

Mr. HALPERN (at the request of Mr. HARVEY of Michigan), for 20 minutes, today.

Mr. McDOWELL, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

(The following Members (at the request of Mr. HARVEY of Michigan) and to include extraneous matter:)

Mr. AYRES.

Mr. UTT.

Mr. McINTIRE.

(The following Members (at the request of Mr. PATTEN) and to include extraneous matter:)

Mr. ALBERT.

Mr. HAWKINS.

Mr. WILLIAMS.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 502. An act to preserve the jurisdiction of the Congress over construction of hydroelectric projects on the Colorado River below Glen Canyon Dam; to the Committee on Interstate and Foreign Commerce.

S. 2370. An act authorizing maintenance of flood and arroyo sediment control dams and related works to facilitate Rio Grande canalization project and authorizing appropriations for that purpose; to the Committee on Foreign Affairs.

ENROLLED BILLS SIGNED

Mr. BURLESON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 221. An act to amend chapter 35 of title 38, United States Code, to provide educational assistance to the children of veterans who are permanently and totally disabled from an injury or disease arising out of active military, naval, or air service during a period of war or the induction period;

H.R. 6041. An act to amend the prevailing wage section of the Davis-Bacon Act, as amended; and related sections of the Federal Airport Act, as amended; and the National Housing Act, as amended;

H.R. 9311. An act to continue for 2 years the existing suspensions of duty on certain alumina and bauxite; and

H.R. 9740. An act to establish the Roosevelt Campobello International Park, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. BURLESON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1608. An act to amend the Tariff Act of 1930 to provide that certain aircraft engines and propellers may be exported as working parts of aircraft, and for other purposes;

H.R. 2652. An act to amend the Tariff Act of 1930 to provide for the duty-free importation of certain wools for use in the manufacturing of polishing felts;

H.R. 2726. An act for the relief of John F. Wood, of Newport News, Va.;

H.R. 2818. An act for the relief of Elmer J. and Richard R. Payne;

H.R. 3348. An act to amend section 316 of the social security amendments of 1958 to extend the time within which teachers and other employees covered by the same retirement system in the State of Maine may be treated as being covered by separate retirement systems for purposes of the old-age, survivors, and disability insurance program;

H.R. 3496. An act to further amend the Reorganization Act of 1949, as amended, so that such act will apply to reorganization plans transmitted to the Congress at any time before June 1, 1965;

H.R. 4198. An act to amend the Tariff Act of 1930 to provide for the free importation of soluble and instant coffee;

H.R. 6308. An act for the relief of Gerard Puillet;

H.R. 6843. An act for the relief of David Sheppard;

H.R. 7480. An act to suspend for a temporary period the import duty on manganese ore (including ferruginous ore) and related products;

H.R. 8230. An act to amend section 24 of the Federal Reserve Act (12 U.S.C. 371) to liberalize the conditions of loans by national banks on forest tracts;

H.R. 8268. An act to prevent double taxation in the case of certain tobacco products exported and returned unchanged to the United States for delivery to a manufacturer's bonded factory;

H.R. 8459. An act to amend the Federal Credit Union Act to allow Federal credit unions greater flexibility in their organization and operations;

H.R. 8673. An act to amend title V of the Federal Aviation Act of 1958 to provide that the validity of an instrument the recording of which is provided for by such act shall be governed by the laws of the place in which such instrument is delivered, and for other purposes;

H.R. 8964. An act for the relief of Diedre Regina Shore;

H.R. 8975. An act to provide for the tariff classification of certain particleboard;

H.R. 9090. An act for the relief of Mrs. Audrey Rossmann;

H.R. 9220. An act for the relief of Elisabete Maria Fonseca;

H.R. 9688. An act to extend the period during which responsibility for the placement and foster care of dependent children, under the program of aid to families with dependent children under title IV of the Social Security Act, may be exercised by a public agency other than the agency administering such aid under the State plan;

H.R. 9720. An act authorizing a study of dust control measures at Long Island, Port Isabel, Tex.;

H.R. 9934. An act to authorize the construction of a dam on the St. Louis River, Minn.;

H.R. 9964. An act to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments;

H.R. 10463. An act to continue until the close of June 30, 1965, the existing suspension of duties for metal scrap;

H.R. 10465. An act to extend for a temporary period the existing provisions of law relating to the free importation of personal and household effects brought into the United States under Government orders;

H.R. 10466. An act to amend title XI of the Social Security Act to extend the period during which temporary assistance may be provided for U.S. citizens returned from foreign countries;

H.R. 10468. An act to continue until the close of June 30, 1966, the existing suspension of duty on certain copying shoe lathes;

H.R. 10537. An act to continue for a temporary period the existing suspension of duty on certain natural graphite; and

H.R. 10945. An act to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

ADJOURNMENT

Mr. PATTEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 47 minutes, p.m.) the House adjourned until tomorrow, Thursday, June 25, 1964, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2210. A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting the fifth annual report on user charges instituted and maintained by the agencies of the executive branch for the fiscal year 1963, pursuant to title V of the Independent Offices Appropriation Act of 1952; to the Committee on Appropriations.

2211. A letter from the Comptroller General of the United States, transmitting a

report on a review relating to deficiencies in maintenance and supply support of U.S. Army helicopters in South Vietnam disclosed that more than 40 percent of the helicopters assigned to the U.S. Army Support Group in Vietnam had been consistently unavailable for service because of inadequate maintenance capability and shortages of spare parts; to the Committee on Government Operations.

2212. A letter from the Clerk, U.S. Court of Claims, relative to submitting a report relating to House Resolution 774, 87th Congress, dated September 17, 1962. The return of these papers without action by the court has been found necessary as a result of the Supreme Court's decision in *Glidden Co.* v. *Zdanok* (370 U.S. 530), decided June 25, 1962; to the Committee on the Judiciary.

2213. A letter from the Comptroller General of the United States; transmitting a report on a review relating to the cancellation and curtailment of specialized rotary wing pilot training courses because helicopters were grounded for lack of serviceable engines, Department of the Army; to the Committee on Government Operations.

2214. A letter from the Comptroller General of the United States, transmitting a report on a review of excessive disability pension payments resulting from inadequate procedures for review of annual income questionnaires, Veterans' Administration; to the Committee on Government Operations.

2215. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report to the Committee on Science and Astronautics of the House of Representatives pursuant to section 3 of the National Aeronautics and Space Administration Authorization Act, 1964 (77 Stat. 141, 143); to the Committee on Science and Astronautics.

2216. A letter from the Chief Justice, Supreme Court of the United States, transmitting a copy of the Report of the Proceedings of a Special Meeting of the Judicial Conference of the United States, held at Washington, D.C., March 16–17, 1964, pursuant to title 28, United States Code, section 331 (H. Doc. No. 312); to the Committee on the Judiciary and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JENNINGS: Committee on Ways and Means. H.R. 7307. A bill to amend the Internal Revenue Codes of 1939 and 1954 with respect to the apportionment of the depletion allowance between parties to contracts for the extraction of minerals or the severance of timber; with amendment (Rept. No. 1516). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FASCELL:

H.R. 11707. A bill to provide for the appointment of a Commissioner General for U.S. participation in the Canadian Universal and International Exhibition, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BROOMFIELD:

H.R. 11708. A bill to provide for the appointment of a Commissioner General for U.S. participation in the Canadian Universal and International Exhibition, and for other purposes; to the Committee on Foreign Affairs.

By Mr. FRELINGHUYSEN:

H.R. 11709. A bill to provide for the appointment of a Commissioner General for U.S. participation in the Canadian Universal and International Exhibition, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MURPHY of Illinois:

H.R. 11710. A bill to provide for the appointment of a Commissioner General for U.S. participation in the Canadian Universal and International Exhibition, and for other purposes; to the Committee on Foreign Affairs.

By Mr. KEOGH:

H.R. 11711. A bill to repeal paragraph (6) of section 4231 of the Internal Revenue Code of 1954, and to amend section 4232 of such code relating to definitions; to the Committee on Ways and Means.

By Mr. O'KONSKI:

H.R. 11712. A bill to amend the Trade Expansion Act of 1962; to the Committee on Ways and Means.

By Mr. PHILBIN:

H.R. 11713. A bill to amend the Tariff Act of 1930, as amended, to provide that button blanks, regardless of state of finish, shall be subject to the same duty as buttons; to the Committee on Ways and Means.

Mr. ROBERTS of Alabama:

H.R. 11714. A bill to amend the Federal Hazardous Substances Labeling Act to make that act applicable to cigarettes; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 11715. A bill to amend title II of the Social Security Act to provide a 6-percent across-the-board increase in benefits thereunder, and for other purposes; to the Committee on Ways and Means.

By Mr. STEPHENS:

H.R. 11716. A bill to amend section 5155 of the Revised Statutes to make all restrictions on branching by State banks imposed by the law of any State equally applicable to national banks located within such State; to the Committee on Banking and Currency.

H.R. 11717. A bill to provide for public hearings in connection with the chartering of national banks; to the Committee on Banking and Currency.

By Mr. TALCOTT:

H.R. 11718. A bill to create the Freedom Commission and the Freedom Academy, to conduct research to develop an integrated body of operational knowledge in the political, psychological, economic, technological, and organizational areas to increase the nonmilitary capabilities of the United States in the global struggle between freedom and communism, to educate and train Government personnel and private citizens to understand and implement this body of knowledge, and also to provide education and training for foreign students in these areas of knowledge under appropirate conditions; to the Committee on Un-American Activities.

By Mr. TEAGUE of California:

H.R. 11719. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain retroactively awarded disability compensation; to the Committee on Ways and Means.

By Mr. BROTZMAN:

H.R. 11720. A bill to amend the Internal Revenue Code of 1954 to provide a 20-percent credit against the individual income tax for certain educational expenses incurred at an institution of higher education; to the Committee on Ways and Means.

By Mr. GALLAGHER:

H.R. 11721. A bill to provide for the appointment of a Commissioner General for U.S. participation in the Canadian Universal and International Exhibition, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HALPERN:

H.R. 11722. A bill to amend title II of the Social Security Act to increase benefits, to provide full retirement benefits for men at age 62 and women at age 60, to provide widow's benefits without regard to age in cases of disability, and to remove the limitation on the amount of outside earnings permitted while receiving benefits; to the Committee on Ways and Means.

By Mrs. KELLY:

H.R. 11723. A bill to provide for the appointment of a Commissioner General for U.S. participation in the Canadian Universal and International Exhibition, and for other purposes; to the Committee on Foreign Affairs.

By Mr. KNOX:

H.R. 11724. A bill to amend the Tariff Act of 1930 to clarify the treatment of ball or roller bearings and parts thereof; to the Committee on Ways and Means.

By Mr. WHITENER (by request):

H.R. 11725. A bill to amend an act concerning gifts of securities to minors in the District of Columbia to permit savings and loan associations to act as custodians of gifts to minors; to the Committee on the District of Columbia.

By Mr. BATTIN:

H.R. 11726. A bill to provide for the appointment of a Commissioner General for U.S. participation in the Canadian Universal and International Exhibition, and for other purposes; to the Committee on Foreign Affairs.

By Mr. McCLORY:

H.R. 11727. A bill to amend the act of March 3, 1899, to authorize the United States to recover by civil actions the cost of removing certain obstructions from the navigable waters of the United States, and for other purposes; to the Committee on Public Works.

By Mr. ELLSWORTH:

H.R. 11728. A bill to limit the applicability of the antitrust laws so as to exempt certain aspects of designated professional team sports, and for other purposes; to the Committee on the Judiciary.

By Mr. TEAGUE of Texas:

H.J. Res. 1052. Joint resolution authorizing the First Cavalry Division Association to erect a monument in the District of Columbia; to the Committee on House Administration.

By Mr. HAWKINS:

H.J. Res. 1053. Joint resolution proposing an amendment to the Constitution to provide that Representatives in Congress shall be apportioned among the several States every 10 years according to their respective numbers of persons registered to vote in national elections; to the Committee on the Judiciary.

By Mr. MAHON:

H.J. Res. 1054. Joint resolution to amend Public Law 722 of the 79th Congress, and Public Law 85–935, relating to the National Air Museum of the Smithsonian Institution; to the Committee on House Administration.

By Mr. McCULLOCH:

H.J. Res. 1055. Joint resolution to amend the Constitution of the United States to guarantee the right of any State to apportion one house of its legislature on factors other than population; to the Committee on the Judiciary.

By Mr. CAREY:

H. Con. Res. 316. Concurrent resolution expressing the sense of the Congress with respect to the imposition of appropriate sanctions by the United Nations against those member states whose governments engage in certain discriminatory practices in viola-

tion of article 18 of the Universal Declaration of Human Rights; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT of Florida:

H.R. 11729. A bill for the relief of Woo Foon Leung; to the Committee on the Judiciary.

By Mr. BOLAND:

H.R. 11730. A bill for the relief of Roland Poirier, a minor; to the Committee on the Judiciary.

H.R. 11731. A bill for the relief of Michele Granaudo; to the Committee on the Judiciary.

By Mr. JOHNSON of California:

H.R. 11732. A bill for the relief of Mr. and Mrs. Harris Crogh; to the Committee on the Judiciary.

By Mr. LINDSAY:

H.R. 11733. A bill for the relief of Giuseppa Costa; to the Committee on the Judiciary.

H.R. 11734. A bill for the relief of Paul Leopold Hofmann; to the Committee on the Judiciary.

H.R. 11735. A bill for the relief of Shirley Shapiro; to the Committee on the Judiciary.

By Mr. O'KONSKI:

H.R. 11736. A bill to provide for the advancement of Hospitalman Chief Gerald Henry White, U.S. Navy (retired), to the grade of chief warrant pharmacist; to the Committee on Armed Services.

By Mr. OSTERTAG:

H.R. 11737. A bill for the relief of Mrs. Wanda Zybaczinski; to the Committee on the Judiciary.

By Mr. RYAN of New York:

H.R. 11738. A bill for the relief of Saleh Zen and his wife, Saripah Salmiah Zen; to the Committee on the Judiciary.

H.R. 11739. A bill for the relief of Nachman Erlichman and his wife, Michal Erlichman; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 11740. A bill for the relief of Jack Ralph Walker; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

945. The SPEAKER presented a petition of Henry Stoner, Avon Park, Fla., to pass a law providing for public attorneys who will aid citizens in their legal problems, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

Akron Supports the U.S. Olympic Committee

EXTENSION OF REMARKS

OF

HON. WILLIAM H. AYRES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1964

Mr. AYRES. Mr. Speaker, this October the athletes of the entire world will gather in Japan to compete in the Olympic games. The U.S. Olympic Committee is now gathering funds to send the participants that will represent this Nation to those games.

The 14th District of Ohio has always been in the forefront in Olympic activities. This year, under the encouragement of the Akron Beacon Journal and the Akron Chamber of Commerce, the schoolchildren decided to become partners in this venture. Nearly 8,000 children contributed to this fund.

At a recent Olympic Day dinner in Akron, they presented a telegram that bore the names of all of them. It is my understanding that this was the longest telegram ever sent. It was addressed, as a note of encouragement to those Akron area athletes who will actively participate in the 1964 Olympics.

One of the greatest basketball teams of modern times is located in Akron, Ohio. I am speaking of the team that this year won the national AAU championship—the Goodyear Tire & Rubber Co. team. Three members of this team have been chosen as members of the 12-man U.S. Olympic basketball team. Those great athletes are Larry Brown, Dick Davies, and Pete McCaffrey. I would add that Goodyear coach Hank Vaughn, together with Oklahoma Coach Hank Iba, will guide our representatives in the 16-team competition.

The 14th Congressional District, in the past, has had many medal winners in the Olympic games. I know that the Members of the House will remember the illustrious records of Hayes Alan Jenkins, Carol Heiss, Les Carney, Pete Rademacher, Jim George, Keith Carter, Betty Jean Maycock, Karen Oldham, Joe Kotys, Janet Bachna, Glenn Davis, David Jenkins, Pete George, Jimmy McClain, and the late Jack Taylor. All of these brought honor to our Nation.

I feel certain that this October, we will be able to add the names of Larry Brown, Dick Davies, and Pete McCaffrey to this long list of Olympic medal winners.

The Akron Olympic Day dinner raised many thousands of dollars to help defray the expenses of the Olympic team.

I wish to commend the Olympic Day committee for its efforts. That committee headed by George Brittain, executive vice president of the Akron Chamber of Commerce, consisted of Lincoln Hackim, of Norman Malone Associates; Chuck Bloedorn, of Goodyear Tire & Rubber Co.; Jack Patterson and William Schlemmer, of the Akron Beacon Journal; Bob Wilson, of radio station WADC; and Bob Wylie of radio station WAKR.

Truly the spirit of these men and of the schoolchildren should inspire all of us to lend our support to the U.S. Olympic Committee.

Crime in New York City

EXTENSION OF REMARKS

OF

HON. JOHN BELL WILLIAMS

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1964

Mr. WILLIAMS. Mr. Speaker, on yesterday, a young lady was a victim of assassination near Times Square, in the heart of New York City. Miss Joan Wilson was brutally murdered by a sniper's bullet, apparently for no reason other than the fact that she was there.

Mr. Speaker, certain Members of Congress representing that beleaguered city derive their political subsistence from continuing demagogic harangues of hatred directed against the people of Mississippi. Their chief stock in trade is in maligning the people of the South while sweeping their own dirt under the rug.

Mr. Speaker, New York City is one of the most crime-infested areas in the country, and its crime rate makes that of Mississippi look like a Sunday School picnic by comparison.

Mr. Speaker, if these Members are so deeply concerned about law, order, and civil peace, they would devote their energies and such talents as they may have in the protection of their own people, rather than encouraging and fomenting racial incidents in the South.

Tribute to Jester Hairston

EXTENSION OF REMARKS

OF

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1964

Mr. HAWKINS. Mr. Speaker, in the great State of California, and city of Los Angeles, resides a noted and talented American. Most TV viewers or radio listeners know him as LeRoy, the brother of Sapphire, and the tyrant of Kingfish. However, I feel that his contribution to the American society and the entertainment world has been much more influential and forceful.

This famed American and outstanding Californian is the inimitable Jester Hairston. Mr. Hairston studied music at Tufts University, where he received his degree in music, and did further study at the Julliard Conservatory. Shortly afterward, Mr. Hairston began composing and arranging choral music for the Hall Johnson Choir. His talent in this field was quickly recognized and he eventually moved up to assistant conductor of the choir.

He served with the choir for 15 dedicated years. During those 15 years, he conducted and arranged choral music for radio and Broadway musical shows. He worked with such outstanding artists as the late Al Jolson, Andre Kostelantz, Alfred Wallenstein—former conductor of the Los Angeles Symphony—and Fred Waring.

In 1935 the choir was contracted to do the choral music for the play "Green Pastures." Hairston went West with the choir to arrange the choral music for the play. The success of the play elevated Jester to the ranks of the greats, and put him in constant demand. Hollywood kept him, and thusly he arranged and conducted superb background choral music for many meritorious movies. Many of us have seen "Duel in the Sun," "The Foxes of Harrow," "Red River," "Land of the Pharaohs," "Friendly Persuasion," and "Carmen Jones." We can vividly remember these great movies, and I am sure can almost hear the melodious strains in the background that painted and unfolded the moods, thoughts, and feelings conveyed through them. These raptures of ecstatic tones were produced from the sensitive and brilliant mind of Jester Hairston.

But Hairston's excellence is not limited to background music, nor to the movies of the early fifties. He is also an actor of wide acclaim. We remember him as Jethro in John Wayne's "The Alamo," and he recently appeared in the movie version of Harper Lee's "To Kill a Mockingbird" with Gregory Peck.

As a lecturer on Negro folksongs, and as a choral conductor, he is in constant demand among schools and colleges all over the country. He has prepared programs and concerts for Stanford University, and the University of the Pacific, where he recently received an honorary degree. He conducted choirs at both schools in arrangements of Negro spirituals and folksongs. His choral arrangements of "Angels Rolled the Stone Away," "Brother Rabbit," "Sweet Potatoes," and "Nobody Knows The Troubles I Seen," can be found in all music stores, and are used repeatedly by schools and colleges throughout the two hemispheres.

In the field of recording his style has spurred millions to understand and appreciate more Negro folksongs and lore. Such records as "Christmas Gift," which was the most successful song on an album by Walter Schuman, and "Mary's Boy Chile," recorded by Harry Belafonte, have reached the million mark in sales. "Mary's Boy Chile" has been translated into a dozen or more languages, and has been recorded by scores of artists.

Jester Hariston acted as a good will ambassador in 1961 from our country to instruct Europeans in American folksongs. This tour was so successful, that he was asked to return to Germany, Finland, Yugoslavia, Denmark, and Sweden to conduct choral groups in singing Negro folksongs. His performance in these countries resulted in a better understanding of nationalities, their struggles, heartaches, and their pleasures.

This was a memorable event for Hairston. He was asked to conduct the famous Godesburg Men's Choir in Germany for the choir's centennial anniversary, which occurred simultaneously with the Emancipation Proclamation. This aggrandizement was deeply felt and appreciated by Jester Hairston, who felt that no man could ask for more. But the choir felt that for a man of his caliber and integrity, this was not enough. The choir, therefore, presented him with a gold medal to show their admiration and respect for having the honor to perform under such an accomplished artist.

Jester Hairston has not ceased to produce and display his talents. His latest achievements helped to win an Emmy. He did the vocal music for the best film of the year, "Lilies of the Field," and it is his voice heard as that of Sidney Poitier singing the theme song.

With all of these successes and achievements, Jester Hairston has not lost the common touch. He refuses to sit and wait to be called. He loves people, and is always ready to serve. He has no plans for retirement, for he feels that there are still too many songs to be sung, and too many wonderful people to meet.

Prognosis for the Panama Canal

EXTENSION OF REMARKS
OF

HON. JAMES B. UTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1964

Mr. UTT. Mr. Speaker, among the most gravely important matters which has faced the United States since the Suez Canal crisis of 1956, has been that of the Panama Canal. Recognizing the magnitude of the subject and the necessity for the exercise by the Congress of its constitutional power as the ultimate authority in the formation of Isthmian policy, my distinguished colleague from Pennsylvania [Mr. FLOOD] seized the torch of leadership and since that time, in a series of notable addresses and statements, in and out of the Congress, has fearlessly and forcefully clarified the key problems and offered remedial plans of action. When viewed as a whole, his contributions have been unique, making him the most respected leader in the Congress on Isthmian Canal policy matters.

It was, therefore, with the highest interest that I read in the June 1964 issue of the U.S. Naval Institute Proceedings an extremely able article by my greatly esteemed and able colleague from Pennsylvania in which, with characteristic candor and vigor, he emphasizes the imperative necessity to stick with fundamentals in dealing with interoceanic canal problems, especially the retention of indispensable and undiluted sovereignty of the United States over the Canal Zone and Panama Canal.

Early in the present Congress, the late Chairman Clarence Cannon of the Committee on Appropriations introduced House Concurrent Resolution 105, 88th Congress, to clarify, make definite, and reaffirm our Isthmian Canal policy.

The indicated article follows:

"PROGNOSIS FOR THE PANAMA CANAL": COMMENT AND DISCUSSION

(By the Honorable DANIEL J. FLOOD, Member of Congress)

As a member of the subcommittee of the House Committee on Appropriations charged with the formulation of appropriations bills for the Armed Forces and as a student of Panama Canal history and interoceanic canal problems over many years, I have read with the greatest interest the article by Professor Miller. All thoughtful Members of the Congress that I know concur with his conclusion that: "Any real erosion of our position in the Canal Zone is bound to have widespread and adverse effects throughout the Caribbean, in Latin America generally, and on our global relationships." This is a realistic appraisal of the situation now facing the United States with respect to the Panama Canal, which has long been the key target for the Communistic revolutionary conquest of the Caribbean.

The sovereign status of the United States over the Canal Zone and Panama Canal is the direct result of a long-range commitment by our Government for the construction, and perpetual maintenance, operation, sanitation, and protection of an isthmus canal by whatever route that may be considered, pursuant to the 1901 Hay-Pauncefote Treaty with Great Britain and the 1902 Spooner Act authorizing the securing of perpetual control of the Canal Zone by treaty with the sovereign of the Isthmus of Panama.

As a result of the Panama Revolution of November 3, 1903, and the diplomatic intervention of President Theodore Roosevelt, the necessary treaty was made with Panama, a successor state, rather than with Colombia, the sovereign of the isthmus prior to the 1903 revolt. This treaty, prepared under the close supervision of Secretary of State John M. Hay, granted sovereignty en bloc over the Canal Zone to the United States, "in perpetuity" and most significantly to the "entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." Moreover, the United States obtained ownership of all land and property in the Canal Zone by purchase from individual owners as well as sovereignty of the entire Canal Zone and its auxiliary areas by payment of $10 million as indemnity.

This control and ownership of the Canal Zone and Panama Canal was formally recognized by Colombia in the Thomson-Urrutia Treaty of April 6, 1914, proclaimed March 30, 1922. In return, Colombia received certain rights for transit of the Panama Canal and transport over the Panama Railroad comparable to those enjoyed by the Governments of the United States and Panama.

Thus the commitments of the United States, as regards the perpetual operation of the Panama Canal, are rooted not only in law but also in three important treaties. The width of the Canal Zone and the grant of sovereignty in perpetuity over it are not happenstances attributable to unauthorized clandestine maneuvering of foreign agents, as partisans have implied, but are due to the important studies made by the Isthmian Canal Commission (1899 to 1902) headed by Rear Admiral John G. Walker, one of the most distinguished officers of the Navy. In his report on January 18, 1902, he emphasized that suitable treaty arrangements must be made "if an isthmian canal is to be constructed by our Government across the Isthmus of Panama," that "the grant must be not for a term of years, but in perpetuity, and a strip of territory from ocean to ocean of sufficient width must be placed under the control of the United States," and that "in this strip the United States must have the right to enforce police regulations, preserve order, protect property rights, and exercise such other powers as are appropriate and necessary.

History has amply justified the vision of this distinguished naval officer in laying the basis for U.S. treaty-granted exclusive sovereignty over the Canal Zone and Panama Canal in an area that has been the scene of endless bloody revolution and political instability. The isthmus is less stable today than it was in 1903, and the challenge

of the 1903 Treaty by Panama has not been met in a forthright manner by the United States. Experience has certainly shown that should the time ever come when any part of the Canal Zone or Panama Canal becomes a political pawn of Panamanian politicians, the days of U.S. control will be numbered. The inevitable result will be taken over by Communist revolutionary power.

Lest the current enthusiasm for a second Isthmian Canal serve to divert due consideration from fundamentals, attention is invited to the following facts:

1. The United States has a fine canal at Panama now, but it is rapidly approaching saturation.

2. Experience has shown that it will work, that our Government knows how to maintain and operate it, and how to provide for its major increase of capacity and operational efficiency without the requirement of a new treaty with Panama, all of which are paramount considerations transcending wishful thinking of promoters and idealists.

3. This modernization program, which was developed in the Panama Canal organization from meticulous studies of operations during World War II, provides for the adaptation of the existing canal to the principles of the Terminal Lake solution. This idea has been authoritatively recognized by maritime agencies of our Government and independent engineers, navigators, and lawyers as providing the best operational canal practicable of achievement, and at the least cost without involvement in treaty negotiations. The last, indeed, is a prime consideration.

4. The United States now has workable treaties for the Panama Canal granting the indispensables of undiluted sovereignty and ownership over the Canal Zone and Panama Canal and its auxiliary areas, and the protection of the summit level water supply of the Chagres River Valley.

5. The United States has suffered abrogation by ill-advised treaty amendments and nullification by Executive actions of vital parts of the 1903 Treaty through policies and practices in direct opposition to the 1923 position of Secretary of State Charles E. Hughes, who considered such reversals unthinkable.

6. The United States has had to defend its sovereignty over the Canal Zone by the use of force—an action absolutely necessary to protect the lives of our citizens and to save the canal itself from destruction by Red-directed mobs from Panama.

7. The United States has a treaty for a canal at Nicaragua, which would require a supplementary treaty with that country to supply necessary details as well as conventions with Costa Rica, Salvador, and possibly, Honduras, but it has no treaties for a canal at any other site.

8. The United States would have to defend a new canal at any site of any type constructed in addition to the Panama Canal from lawlessness and disorder as was illustrated at Panama from January 9 to 11, 1964, and against aggressive warfare.

9. The use of nuclear explosions for excavation is limited by the nuclear test-ban treaty and, in any case, is still in the conjectural stage, requiring from 7 to 10 years of experiment and the expenditure of some $250 million to develop proper devices for such excavation by nuclear explosion.

10. The expenditure of vast sums on an extravagant so-called sea-level project in the Canal Zone in the name of security and national defense will inevitably divert huge sums from other, more pressing programs for the defense of the United States and, on the whole, will involve much greater fixed costs than the present canal as improved by the economic means of additional locks. Moreover, dogmatic assertions that a canal at sea level would only require a small number of employees, perhaps 500, to operate and maintain it are perfectly absurd. A much larger number would be required because of the related conditions involved.

11. While it is true that a sea-level project at Panama has the support of the National Rivers and Harbors Congress and industrial interests and professional engineers associated with it, there has been, and still is, sharp opposition to this project on the part of many independent nuclear warfare, engineering, maritime, and other ship canal experts who cannot be dismissed as uninformed, incompetent, or inexperienced.

12. If the United States does not stand firm at Panama it cannot stand anywhere else, and weakness at Panama will cause other nations having possible canal sites to be more demanding in their consideration of treaties for new canal construction.

Certain writers, whose experience hardly entitles them to speak with authority, have urged that the United States surrender its sovereignty and jurisdiction over the Panama Canal to the United Nations or some other international body. They do not reveal that such transfer has been a prime objective of Soviet policy since 1917 and is directly related to Soviet aims to secure the control of the Dardanelles. Moreover, such a transfer would not solve problems but would be an abdication of responsibilities and would bring about the complete extinction of the Monroe Doctrine designed for the protection of the Western Hemisphere. In the light of what has happened in the Caribbean since 1959 when Castro took over Cuba, any such proposal is, to say the least, naive and, in its effect, amounts to downright subversion.

The Isthmian Canal policy of the United States, as basically evolved, has had for its objective the best canal at the best site for the transit of vessels of commerce and war on terms of equality and at low cost of construction, maintenance, operation, sanitation, and protection in the interest of tolls which interoceanic commerce can bear.

The most comprehensive, scholarly, forthright, and objective yet brief and rigorous clarification of overall canal problems ever written is that by Capt. Miles P. DuVal.[1] This article has become a state paper of the first importance and is must reading for all who wish to know the truth about this very confusing subject.

In planning our future interoceanic canal policy, it is imperative to stick to fundamentals. And the first of these is retention of indispensable and undiluted sovereignty of the United States over the Canal Zone and the Panama Canal, for if any part of the zone or interest in the canal becomes a political pawn for Panamanian politicians, the days of efficient operations of the Panama Canal, indeed, will end. Moreover, no one has ever been able to explain how the United States can adequately maintain, operate, and protect the canal with less authority than that accorded in the 1903 treaty.

[1] Miles P. DuVal, "Isthmian Canal Policy—An Evaluation," U.S. Naval Institute proceedings, March 1955, pp. 263–275.

Unveiling of the Taras Shevchenko Statue

EXTENSION OF REMARKS
OF
HON. CLIFFORD G. McINTIRE
OF MAINE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 24, 1964

Mr. McINTIRE. Mr. Speaker, on Saturday, June 27, 1964, there will be an unveiling of a statue in honor of Taras Shevchenko, celebrating the 150th anniversary of the birth of Europe's early freedom fighter.

It is indeed highly appropriate that such a statue should occupy a prominent place on the American landscape, for the free shore of America is an ideal site for this tribute to one who so nobly and effectively fought for freedom.

This structure will serve as a stirring salute to the burning deeds of this freedom fighter, reminding all men that liberty is a prize not freely given but dearly won.

It will also serve to remind those of us who are free that there are others who do not live in the warm atmosphere of liberty—that we who abide with independence must send out a constant flow of understanding and encouragement to those not so blessed, thereby providing a current of hope that the iron curtain which has fallen down upon them will someday yield to the penetrating and all-conquering force of freemen.

Address by Secretary of the Interior Udall at Ground-Breaking Ceremonies at the Arbuckle Reclamation Project, Sulphur, Okla.

EXTENSION OF REMARKS
OF
HON. CARL ALBERT
OF OKLAHOMA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 24, 1964

Mr. ALBERT. Mr. Speaker, on June 20, 1964, it was my great pleasure to accompany the Secretary of the Interior, the Honorable Stewart L. Udall, at the ground-breaking ceremonies at the Arbuckle reclamation project in Sulphur, Okla.

Secretary Udall's address at these ceremonies was one of the finest I have ever had the pleasure to hear. I know that all Members will be interested in reading what he said:

REMARKS BY SECRETARY OF THE INTERIOR STEWART L. UDALL, AT GROUND-BREAKING CEREMONIES AT THE ARBUCKLE RECLAMATION PROJECT, SULPHUR, OKLA., JUNE 20, 1964

Few occasions give me more pleasure than to participate in the ground-breaking of another multiple use water project, and it is with great pride that I am able to participate as an active member of the team which brought this particular endeavor to the construction stage.

The Arbuckle project has been thoroughly studied and planned by our Bureau of Reclamation. We believe it is a true conservation endeavor and that it represents the best answers available to the many increasing demands we must make of our water.

You are lucky, here in Oklahoma, that you still can boast a surplus of water. Your State government has participated in this Arbuckle endeavor to insure that as the project is further developed, the uncommitted water will be used to its highest potential. Future users will be grateful for this attention to the foreseeable demands they will put upon it.

The primary purpose of this project, of course, is to supply municipal and industrial water to the surrounding towns and to the

refinery—all of which have urgent need of it. But without detracting one iota from the major uses for which this project is intended, a whole complex of attendant benefits have been included—designed to enrich the economy, improve the quality of the land, and enhance the condition of wildlife.

Flood control provided by Arbuckle Dam and Reservoir will be effective on both Rock Creek and the Washita River. The reservoir will provide nearly 6,000 acres of water surface for those who seek recreation in aquatic sports. Beneath that surface will be the fisherman's quarry. On the Big Sandy Creek arm of the reservoir, a wildlife management area will provide better conditions for the area's animal and waterfowl population and enhance opportunities for hunters.

You are lucky that the setting for your reservoir has so much natural beauty. It does not always work out that we can improve an area in so many ways. In some cases, to do the primary job means to do just that job and not much else. Here, however, you have all the makings at hand for a recreational area which will be of truly national significance. Platte National Park is close by and is presently receiving almost more use than it can stand. The proximity of your reservoir to the Platte National Park will make that park an even greater attraction and will increase the visitor pressure. Within the limits imposed by our present authorization for this project, we will provide recreational facilities to supplement those now available at the national park. But the prospects are that with recreation growing faster than any of our other leading industries, there will be a need for private developers to provide recreational opportunities beyond any that the Government—either Federal or State—can provide. All this enriches the economy of the Nation and of your area, and adds to the quality of America's outdoor opportunities.

We are completely understanding and sympathetic to the position of those people who will be required to sell their land and, in some instances, relocate their homes. This is often the case in water-resource developments involving storage, and no better way has been found than to weigh the public good against the private problems involved and then do what seems best for the area or the Nation as a whole. In such cases, the rights of individual property owners are protected by careful constitutional and statutory safeguards, requiring fair and just payment to the owners before any land is taken for public purposes.

I congratulate your State government for its direct financial participation in this project. The State of Oklahoma has underwritten the repayment of all costs associated with providing a future water supply, and I firmly believe that this is a proper expression of a joint Federal-State endeavor. Your water conservation storage commission, led by Dr. Church, is to be complimented on the part it has played in developing the project.

For many years prior to the formation of the Arbuckle Conservancy District, the Southern Oklahoma Development Association was active in working out details of the project with the Department of the Interior's Bureau of Reclamation and seeking authorization by Congress. Gene Cope must surely be recognized and applauded for all the effort he and his organization have made to bring us to this point of initiation today.

We have dwelt at some length during the planning and researching stages of this project on the benefits that will accrue to this area as the waters of Rock Creek and the Washita River are harnessed and put to work for the people in the immediate vicinity of this project.

We have said little, however, of the effects of what we begin here today on areas far beyond the so-called limits of this project. We are dealing here not merely with a sizable, rolled earth-filled dam—we are dealing with water. More and more we coming to realize that water is not a district problem, not a State problem, not a regional or river basin problem—not even a national problem. It is a concern which is global in its scope. On the whims and vagaries of this one element in our environment have hung the glories and the tragedies of whole civilizations in the past. On the taming and mastering of it hangs the hope of the future.

Much remains to be discovered before the oceans will yield the fresh water so desperately needed in parts of this country and the world at large—in quantities and a cost which would make its use economically feasible. In spite of our sophisticated weaponry in the battle to harness water, much still remains outside the range of our power and competence. The raindrops continue to fall with their own pattern, ignoring the dry areas of the earth where water is more precious than gold but strumming steadily on such regions as the 2-million-square-mile basin of the Amazon River, which discharges 3½ billion gallons of fresh water every minute into the Atlantic Ocean. This is 12 times the flow of our own river giant—the Mississippi— and yet to date we have no way of balancing this abundance in one area against the drought in other areas.

The search, however, continues. Our efforts in the direction of saline water conversion have shown steady progress. The costs of desalinization are coming down as new methods, multiple-use plants and by-product recovery have been added to the process.

And we continue to work with known factors, such as the project we are starting here today * * * knowing that we not only create a fine municipal and industrial water supply, virtually eliminate flood danger, improve wildlife habitat and provide a splendid recreation area, but also that we are improving the overall quality of American life—that we are moving in the direction of what President Johnson has called the great society.

With our population hovering at the 200 million mark the Nation is already using 6 billion gallons of water daily. By 1970 we will be using twice that much and it will require every ounce of creative conservation we possess to meet these prodigious demands.

Since 1961, the Kennedy-Johnson administration has authorized projects that will provide 5 million acre-feet of water storage. Twelve new water resource developments are underway; 8 major and 15 smaller reclamation projects have been authorized and funds have been appropriated. Some 250 new watershed projects will conserve surface water, prevent soil erosion, and build up underground water supplies. Since 1961 we have spent nearly $70 million for surface and underground water research and the saline water conversion program has been expanded sixfold. All these things we have done, and more are projected. Among them are a multibillion-dollar, long-term national water program to meet the Nation's pressing needs.

But more is needed, and more will be forthcoming. We have a President who recognizes the urgency in facing up to the needs of a rocketing population. We have an administration which is not content with just keeping abreast of these needs, but is determined to build an ever greater society.

But even with great leadership, a nation can founder. It takes understanding, dedication and commitment on the part of all who hold positions of trust in this democratic society if we are to move ahead instead of falling irrevocably behind in this race between mounting need and available resource.

We would not have this opportunity to break ground here today had it not been for the willingness of the Arbuckle Master Conservancy District and the State of Oklahoma to work out with us the repayment contracts required as a prelude to starting construction. Mr. Glen Key, president of the Conservancy District, and his directors, Mr. Cofer of Wynnewood and Mr. Horner of Davis, have spent many long hours working with us to iron out all details of repayment, so that we could arrive at this happy point today.

It is from this kind of cooperative effort that the great society is being built. In the words of President Johnson:

"The great society is not a safe harbor, a resting place, a final objective, a finished work. It is a challenge constantly renewed beckoning us toward a destiny where the meaning of our lives matches the marvelous products of our labor."

I should just like to add, that the sounds which accompany the building of a great society are not merely rhetoric—they include the sound of the wrecking ball clearing away slums for urban renewal, the riffle of a page in a school library, the bite of a tractor-drawn plow into rich farm earth, the hum of the assembly line, the evening chirp of a mallard duckling and the laughter of a child. They also include the dynamite blast that heralds the building of a dam, and it is my very great pleasure to be with you as you celebrate another milestone in Oklahoma's multipurpose water program.

HOUSE OF REPRESENTATIVES

THURSDAY, JUNE 25, 1964

The House met at 12 o'clock noon.

The Reverend Robert M. Taylor, minister, the Central Presbyterian Church, Downingtown, Pa., offered the following prayer:

Eternal God, our Heavenly Father, we come to Thee not so much from custom as from need. Cleanse our minds and hearts and help us to acknowledge Thy lordship over all of life.

Fill us with renewed awe that Thou hast called us to be partners with Thee in governing the orderly processes of civilization. Free us from the tyranny of the temporal so that we may be attuned to the whisper of Thy wisdom.

Put Thine arm of love around us; make us sensitive to the leading of Thy holy spirit, and fill us with a renewed dedication to seek and pursue Thy purposes of powerful love for all men.

Be with the Members, officers, and others involved in the work of this House. Guide the President, his Cabinet, the Senators, the judges, and all others who strive in their lives to vote "yes" for Thee. We pray that Thy grace may be sufficient for all of Thy servants, drawing out of each that true greatness which serves before it seeks to be served and which pauses to listen to Thee before being pressured by a babel of tongues and tensions.

O God, we know how many are depending on us and praying for us. We also know how much Thou art depending on us and wooing us. Fill us now with that courage and that love which are