FOREIGN FISHING INDUSTRIES GET U.S. AID

Many of the imports which enter the U.S. market come from producers who have been aided, directly or indirectly, by the U.S. Government.

In 1962, the statement was made in the U.S. Senate that up to that date, $115 million in foreign aid, and another $182 million in U.S.-owned foreign funds, had been rendered by the United States to foreign fishing industries.

Let me cite some examples; under U.S. direction, shrimp were discovered in Korea, a processing plant was set up with U.S. funds, and as a result, shellfish exports from South Korea jumped from $3 million in 1956 to $10 million in 1962—and these exports were mostly to the United States.

The United States also developed a shrimping industry in Pakistan, spending at least $2 million; most of the output, of course, comes to America.

We loaned $5 million to the Chilean fishing industry, for construction of 18 fishing vessels.

The United States has aided the Philippine Republic, and Brazil; we have no available funds for sufficient research vessels for ourselves, but we furnished U.S. funds for one for West Africa.

In all, we have given fishery development assistance to nearly 30 countries, when our own research financing has been insufficient.

I referred to the opening of the halibut grounds in the 1964 fishing season, halibut fishermen from Canada, the United States, and Japan were able to catch only about one-third of the catch quota. Now the fishing season in that area, under the Halibut Commission recommendation, would be limited to only 7 days.

Many countries have unilaterally declared broad fishing limits up to 200 miles offshore. But our Government will not even declare a 12-mile limit, similar to that declared by Canada. Meanwhile, foreign fishing fleets are winning historic rights in this 12-mile coastal area.

Fishery product imports now enter this country with only nominal tariffs, but even these are presently under threat of being further cut or reduced

I voted against the Trade Extension Act, the purpose of which was to reduce tariffs. I did so in the interest of protecting our fishermen; and now I am the author of legislation to stop foreign dumping on this score.

Last January, addressing the National Canners Convention at San Francisco, William C. Herrington, Special Fisheries Assistant to the Secretary of State, said:

"I am not going to attempt to give you solutions to any of our numerous high seas fishery problems; I would like a little more time for that."

How much time does our State Department want? You know what their problem is—the big picture, and exports like cotton. Fishermen are expendable, but not the cotton industry.

Do you know what the fishermen and other taxpayers in America pay in the way of subsidy to the cotton interests?

To start with, the growers get a subsidy; during the 12-month period ended in August 1964, it amounted to $39.3 million.

Then, since that subsidy to growers increases cotton prices, we subsidize exports of cotton, at a rate of 8½ cents a pound. During the same period, this subsidy amounted to $2.3 million.

Then, since the subsidized cotton is converted into textiles and exported by Japan, for instance, back to this county, we give a third subsidy to domestic textile manufacturers, in theory, to allow them to compete with textiles made from our own subsidized raw cotton. These latter payments went to 300 textile manufacturers, and cost the taxpayers a total of $223,841,676.31 for the same 12 months.

The State Department would willingly sacrifice a comparatively small fishing industry in the interest of that so-called big picture along with other industries which want to sell their materials to Japan.

THE NORTH PACIFIC SALMON PROBLEM

Now, let me discuss the salmon problem, which involves, as far as the international situation goes, both conservation and jurisdiction.

Our principal quarrel here is with Japan, and involves the principle of abstention, where one nation supports a second nation in the latter's conservation effort. Chiefly affected is the Bristol Bay red salmon run, whose far-ranging migrations in the high seas has made them vulnerable to Japanese destruction.

Since the expiration of the 10-year minimum term of the North Pacific Salmon Convention, Japan has sought the elimination of the abstention for conservation provisions, to make more of this run of reds accessible to her high seas operation, which includes use of the 10-mile small mesh nets that kill the immature salmon, and relentlessly render useless the conservation sacrifices of American fishermen.

There have been negotiations; but recently, when leaders of our industry met in Washington, it was apparent that our State Department's policy was to defer and delay, while our fishery leaders urgently pleaded for firm and immediate attention, before this year's fishing season.

I say it is about time—no, it is time—for our Government to assert its firm intention to protect our salmon on the high seas. It is time we shocked the administration into action.

Very simply, I propose that the fishermen peacefully petition for redress of grievances. Instead of a boycott, I suggest that you and your brothers on the gulf coast, and on the Atlantic coast, and up and down the Pacific coast peacefully demonstrate, until, and if, future circumstances may call for extending such action to picketing imports, or to a boycott of Japanese goods.

In other words, I would delay the boycott that has been suggested to such time as the Japanese fishing fleet may actually commence taking our Bristol Bay red salmon. By June 1 it will be known whether or not the Japanese intend to harvest our Pacific coast fish as against Asiatic runs of salmon on the high seas. In fact, this is the intention of the Congress of American Fisheries.

Meanwhile, it seems to me that the voice of the Pacific Northwest fisherman should be heard, by petition to the President and to the Department of State. Your indignation should be registered strongly enough to be heard both in Washington, D.C., and in Tokyo.

There is no other way I know of to let the Japanese Government recognize the seriousness of our problem. There is no other way I know of to stir the President, the State Department, and the entire Congress, into taking action to protect your rights.

Let us get the support of organized labor from the Seafarers' International Union, the culinary unions, and all others affiliated with the great brotherhood of fishermen.

Let's demonstrate peaceably, and petition in English and in Japanese, if necessary.

The time to act is here.

SENATE

TUESDAY, MAY 4, 1965

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

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

Our Father, God: Bowing for a hallowed moment at this shrine of Thy grace, we acknowledge before Thee that too often our lives are restless pools, that we frequent so little with our spirits the green pastures and the still waters.

In the social turmoil of our times, forgive us that our minds, burdened by many anxieties, are tempted to cynicism, by human perversity and cruelty, and that we become disheartened and disillusioned by human folly which seems to profit so little by bitter reaping.

So we look upward in our morning prayer that in a continued sense of Thy presence we may be delivered from the fret and fever of today's demands and decisions and from the praise or blame of men. As in these stern days we mobilize our national strength, whether in our own hemisphere or half a world away, against the wrong that needs resistance, and for the right that needs assistance, may our America be true to its starry ideals and to those in the gallant yesterdays who, in every challenge to the rights of men, have dared and died to make men free. 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 Monday, May 3, 1965, was dispensed with.

MESSAGE FROM THE PRESIDENT

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

ADDITIONAL APPROPRIATIONS TO MEET MILITARY REQUIREMENTS IN VIETNAM—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 157)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations:

To the Congress of the United States:

I ask the Congress to appropriate at the earliest possible moment an additional $700 million to meet mounting military requirements in Vietnam.

This is not a routine appropriation. For each Member of Congress who supports this request is also voting to persist in our effort to halt Communist aggression in South Vietnam. Each is saying that the Congress and the President stand united before the world in joint determination that the independence of South Vietnam shall be preserved and Communist attack will not succeed.

In fiscal year 1965 we will spend about $1.5 billion to fulfill our commitments in southeast Asia. However, the pace of our activity is steadily rising. In December 1961, we had 3,164 men in South Vietnam. By the end of last week the number of our Armed Forces there had increased to over 35,000. At the request of the government of South Vietnam in March, we sent marines to secure the key Danang/Phu Bai area; 2 days ago, we sent the 173d Airborne Brigade to the important Bien Hoa/Vung Tau area. More than 400 Americans have given their lives in Vietnam.

In the past 2 years, our helicopter activity in South Vietnam has tripled—from 30,000 flying hours in the first quarter of 1963 to 90,000 flying hours in the first quarter of this year.

In February we flew 160 strike sorties against military targets in North Vietnam. In April, we flew over 1,500 strike sorties against such targets.

Prior to mid-February we flew no strike sorties inside South Vietnam. In March and April, we flew more than 3,200 sorties against military targets in hostile areas inside the country.

Just 2 days ago, we dispatched Gen. C. L. Milburn, Jr., Deputy Surgeon General of the Army, to assist U.S. representatives in Vietnam in formulating an expanded program of medical assistance for the people of South Vietnam. We are contemplating the expansion of existing programs under which mobile medical teams travel throughout the countryside providing on-the-spot medical facilities, treatment, and training in rural areas.

The additional funds I am requesting are needed to continue to provide our forces with the best and most modern supplies and equipment. They are needed to keep an abundant inventory of ammunition and other expendables. They are needed to build facilities to house and protect our men and supplies.

The entire $700 million is for this fiscal year.

The Secretary of Defense will today support this request before the appropriate congressional committees.

Nor can I guarantee this will be the last request. If our need expands I will turn again to the Congress. For we will do whatever must be done to ensure the safety of South Vietnam from aggression. This is the firm and irrevocable commitment of our people and Nation.

I have reviewed the situation in Vietnam many times with the Congress, the American people and the world. South Vietnam has been attacked by North Vietnam. It has asked our help. We are giving that help because our commitments, our principles and our national interest demand it.

This is not the same kind of aggression with which the world has been long familiar. Instead of the sweep of invading armies, there is the steady, deadly stream of men and supplies. Instead of open battle between major opposing forces, there is murder in the night, assassination and terror. Instead of dramatic confrontation and sharp division between nationals of different lands, some citizens of South Vietnam have been recruited in the effort to conquer their own country.

All of this shrouds battle in confusion. But this is the face of war in the 1960's. This is the "war of liberation." Kept from direct attack by American power, unable to win a free election in any country, those who seek to expand communism by force now use subversion and terror. In this effort they often enlist nationals of the countries they wish to conquer. But it is not civil war. It is sustained by power and resources from without. The very object of this tactic is to create the appearance of an internal revolt and to mask aggression. In this way, they hope to avoid confrontation with American resolution.

But we will not be fooled or deceived, in Vietnam or any place in the world where we have a commitment. This kind of war is war against the independence of nations. And we will meet it, as we have met other shifting dangers for more than a generation.

Our commitment to South Vietnam is nourished by a quarter century of history. It rests on solemn treaties, the demands of principle, and the necessities of American security.

A quarter century ago it became apparent that the United States stood between those who wished to dominate an entire continent and the peoples they sought to conquer.

It was our determined purpose to help protect the independence of the Asian peoples.

The consequence of our determination was a vast war which took the lives of hundreds of thousands of Americans. Surely this generation will not lightly yield to new aggressors what the last generation paid for in blood and towering sacrifice.

When the war was over, we supported the effort of Asian peoples to win their freedom from colonial rule. In the Philippines, Korea, Indonesia, and elsewhere we were on the side of national independence. For this was also consistent with our belief in the right of all people to shape their own destinies.

That principle soon received another test in the fire of war. And we fought in Korea, so that South Korea might remain free.

Now, in Vietnam, we pursue the same principle which has infused American action in the Far East for a quarter of a century.

There are those who ask why this responsibility should be ours. The answer is simple. There is no one else who can do the job. Our power is essential, in the final test, if the nations of Asia are to be secure from expanding communism. Thus, when India was attacked, it looked to us for help, and we gave it gladly. We believe that Asia should be directed by Asians. But that means each Asian people must have the right to find its own way, not that one group or nation should overrun all the others.

Make no mistake about it. The aim in Vietnam is not simply the conquest of the South, tragic as that would be. It is to show that American commitment is worthless. Once that is done, the gates are down and the road is open to expansion and endless conquest. That is why Communist China opposes discussions, even though such discussions are clearly in the interest of North Vietnam.

Moreover, we are directly committed to the defense of South Vietnam. In 1954 we signed the Southeast Asia Collective Defense Treaty. That treaty committed us to act to meet aggression against South Vietnam. The U.S. Senate ratified that treaty and that obligation by a vote of 82 to 1.

Less than a year ago the Congress, by an almost unanimous vote, said that the United States was ready to take all necessary steps to meet its obligations under that treaty.

That resolution of the Congress expressed support for the policies of the administration to help the people of South Vietnam against attack—a policy established by two previous Presidents.

Thus we cannot, and will not, withdraw or be defeated. The stakes are too high, the commitment too deep, the lessons of history too plain.

At every turning point in the last 30 years, there have been those who opposed a firm stand against aggression. They have always been wrong. And when we heeded their cries, when we gave in, the consequence has been more bloodshed and wider war.

We will not repeat that mistake. Nor will we heed those who urge us to use our great power in a reckless or casual manner. We have no desire to expand the conflict. We will do what must be done. And we will do only what must be done.

For, in the long run, there can be no military solution to the problems of Vietnam. We must find the path to peaceful settlement. Time and time again we have worked to open that path. We are still ready to talk, without conditions, to any government. We will go anywhere, discuss any subject, listen to any point of view in the interests of a peaceful solution.

I also deeply regret the necessity of bombing North Vietnam.

But we began those bombings only when patience had been transformed from a virtue into a blunder—the mistaken judgment of the attackers. Time and time again men, women, and children—Americans and Vietnamese—were bombed in their villages and homes while we did not reply.

There was the November 1 attack on the Bien Hoa Airfield. There was the Christmas eve bombing of the Brinks Hotel in Saigon. There was the February 7 attack on the Pleiku base. In these attacks 15 Americans were killed and 245 were injured. And they are only a few examples of a steady campaign of terror and attack.

We then decided we could no longer stand by and see men and women murdered and crippled while the bases of the aggressors were immune from reply.

But we have no desire to destroy human life. Our attacks have all been aimed at strictly military targets—not hotels and movie theaters, and embassy buildings.

We destroy bridges, so it is harder to convey the instruments of war from North to South. We destroy radar stations to keep our planes from being shot down. We destroy military depots

for the infiltration of men and arms to the South. We patrol routes of communications to halt the invaders. We destroy ammunition dumps to prevent the use of explosives against our men and our allies.

Who among us can feel confident that we should allow our soldiers to be killed, while the aggressor sits smiling and secure in his sanctuary, protected by a border which he has violated a thousand times. I do not believe that is the view of the American people or of the Congress.

However, the bombing is not an end in itself. Its purpose is to bring us closer to the day of peace. And whenever it will serve the interests of peace to do so, we will end it.

And let us also remember, when we began the bombings there was little talk of negotiations. There were few worldwide cries for peace. Some who now speak most loudly were quietly content to permit Americans and Vietnamese to die and suffer at the hands of terror without protest. Our firmness may well have already brought us closer to peace.

Our conclusions are plain.

We will not surrender.

We do not wish to enlarge the conflict.

We desire peaceful settlement and talks.

And the aggression continues.

Therefore I see no choice but to continue the course we are on, filled as it is with peril and uncertainty.

I believe the American people support that course. They have learned the great lesson of this generation: Wherever we have stood firm aggression has been halted, peace restored, and liberty maintained.

This was true in Iran, in Greece, and Turkey, and in Korea.

It was true in the Formosa Straits and in Lebanon.

It was true at the Cuban missile crisis.

It will be true again in southeast Asia.

Our people do not flinch from sacrifice or risk when the cause of freedom demands it. And they have the deep, abiding, true instinct of the American people: When our Nation is challenged it must respond. When freedom is in danger we must stand up to that danger. When we are attacked we must fight.

I know the Congress shares these beliefs of the people they represent.

I do not ask complete approval for every phrase and action of your Government. I do ask for prompt support of our basic course: resistance to aggression, moderation in the use of power, and a constant search for peace. Nothing will do more to strengthen your country in the world than the proof of national unity which an overwhelming vote for this appropriation will clearly show. To deny and delay this means to deny and to delay the fullest support of the American people and the American Congress to those brave men who are risking their lives for freedom in Vietnam.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *May 4, 1965.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 339) to provide for the establishment of the Agate Fossil Beds National Monument in the State of Nebraska, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House insisted upon its amendment to the bill (S. 510) to extend and otherwise amend certain expiring provisions of the Public Health Service Act relating to community health services, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HARRIS, Mr. O'BRIEN of New York, Mr. ROGERS of Florida, Mr. SATTERFIELD, Mr. SPRINGER, Mr. NELSEN, and Mr. CARTER were appointed managers on the part of the House at the conference.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 3349. An act for the relief of certain retired officers of the Army, Navy, and Air Force;

H.R. 5167. An act to amend title 38 of the United States Code to authorize the administrative settlement of tort claims arising in foreign countries, and for other purposes;

H.R. 5184. An act for the relief of the port of Portland, Oreg.;

H.R. 5283. An act to provide for the inclusion of years of service as judge of the District Court for the Territory of Alaska in the computation of years of Federal judicial service for judges of the U.S. District Court for the District of Alaska;

H.R. 6294. An act to authorize Secret Service agents to make arrests without warrant for offenses committed in their presence, and for other purposes;

H.R. 6507. An act to make section 1952 of title 18, United States Code, applicable to travel in aid of arson;

H.R. 6691. An act to validate certain payments made to employees of the Forest Service, U.S. Department of Agriculture;

H.R. 6848. An act to amend section 35 of title 18 of the United States Code relating to the imparting or conveying of false information;

H.R. 6926. An act to strengthen the financial condition of the employees' life insurance fund created by the Federal employees' Group Life Insurance Act of 1954, to provide certain adjustments in amounts of group life and group accidental death and dismemberment insurance under such act, and for other purposes; and

H.J. Res. 324. Joint resolution to provide for the reappointment of Robert V. Fleming as Citizen Regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 305) expressing the sense of the Congress with respect to the designation of a grove of redwood trees as a memorial to the late Dag Hammarskjold, in which it requested the concurrence of the Senate.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated:

H.R. 3349. An act for the relief of certain retired officers of the Army, Navy, and Air Force;

H.R. 5167. An act to amend title 38 of the United States Code to authorize the administrative settlement of tort claims arising in foreign countries, and for other purposes;

H.R. 5184. An act for the relief of the port of Portland, Oreg.;

H.R. 5283. An act to provide for the inclusion of years of service as judge of the District Court for the Territory of Alaska in the computation of years of Federal judicial service for judges of the U.S. District Court for the District of Alaska;

H.R. 6294. An act to authorize Secret Service agents to make arrests without warrant for offenses committed in their presence, and for other purposes;

H.R. 6507. An act to make section 1952 of title 18, United States Code, applicable to travel in aid of arson; and

H.R. 6848. An act to amend section 35 of title 18 of the United States Code relating to the imparting or conveying of false information; to the Committee on the Judiciary.

H.R. 6691. An act to validate certain payments made to employees of the Forest Service, U.S. Department of Agriculture; to the Committee on Agriculture and Forestry.

H.R. 6926. An act to strengthen the financial condition of the employees' life insurance fund created by the Federal Employees' Group Life Insurance Act of 1954, to provide certain adjustments in amounts of group life and group accidental death and dismemberment insurance under such act, and for other purposes; to the Committee on Post Office and Civil Service.

H.J. Res. 324. Joint resolution to provide for the reappointment of Robert V. Fleming as Citizen Regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

TRIBUTE TO BENNINGTON (VT.) BANNER

Mr. AIKEN. Mr. President, representing a small State in this body, I am sometimes criticized for going overboard in defense of small things, such as small communities, small internal revenue offices, small veterans facilities and even small people.

It has always been my opinion that size alone is no criteria of quality or greatness.

I am very happy to announce this morning that my confidence in the small community and its institutions has again been justified.

Each year, the N. W. Ayer & Son, Inc., of Philadelphia, makes an award for excellence in typography, makeup, and printing to the newspapers of this country which lead the field in their circulation class.

It also makes an award to the newspaper which excels in these respects over all other newspapers, regardless of circulation.

This has come to be regarded as the outstanding national prize in the field of newspaper publishing.

This year, the 35th year in which the N. W. Ayer & Son agency has conducted this contest, the sweepstakes prize, if I may call it that, has been awarded to

the Bennington Banner of Bennington, Vt.

The town of Bennington has a population of approximately 12,000 people.

The Bennington Banner has a daily circulation of 5,163 and yet it won the Ayer cup in competition with other newspapers having circulation many, many times this number, even including the largest of our daily papers.

I want to take this opportunity to publicly compliment the publisher of the Bennington Banner, Donald D. Miller, and its editor, Lawrence K. Miller, and the staff and employees of the Bennington Banner, not only for the credit they have brought to themselves and the town of Bennington, but also for the convincing manner by which they have justified my lifelong confidence in the small community and those who find both opportunity and recognition there.

Mr. President, as I started to come to the floor of the Senate, I asked one of my staff members to hand me a copy of the Bennington Banner. She said, "What copy?" I replied, "Any copy at all. Pick one out at random. I desire to put the lead editorial in the CONGRESSIONAL RECORD."

So I came here with a copy of the Bennington Banner for Monday, April 26, 1965. The lead editorial is entitled "Our Twisted Logic." I wish that all the people in high official positions of our Government would think in such clear and logical terms as is expressed by this lead editorial in the Bennington Banner.

The VICE PRESIDENT. Does the Senator from Vermont wish to have the editorial printed in the RECORD?

Mr. AIKEN. I ask unanimous consent to have printed at this point in the RECORD the editorial, which was selected at random, but which I think is indicative of the type of thinking we are getting from this small town newspaper. It not only does credit to the town, but is far superior, as the N. W. Ayer & Son agency found, to many others.

The VICE PRESIDENT. The request is happily granted.

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

[From the Bennington (Vt.) Banner, Apr. 26, 1965]

OUR TWISTED LOGIC

The logic of war, as war, is to win: This has been pointed out by those "hawks" who would push the logic of war to its full extreme. Similarly, the logic of appetite is to eat, but we nevertheless look askance on the man who eats without regard to manners or health or commonsense. We know that if he stuffs himself long enough with double martinis, fried potatoes, and apple pie, the results will be bad, not only for his appetite but for his general well-being.

If the logic of appetite has its limits, so does the logic of war. The logic of war speaks to us now in terms of escalation and brinkmanship. It says that we must win and that to do so we must take whatever steps are necessary. If doing so leads to war with China—well, so be it.

The trouble with this unrestricted logic is that it, too, can collide with our health and with commonsense. The use of gas in Vietnam fitted the logic of war, but it was a failure not because the gas was inhumane and not even because it was unhelpful but because it put us in an impossible position in international politics.

We have already paid a tremendous political price for our bombing of North Vietnam, and it is far from sure that in the long run it will be worth it. The logic of war, pressed too far and in the wrong way has defeated our own interest.

It would be to our interest, for instance, to have a settlement in which the various Asian powers do not form a solid anti-U.S. bloc. Our present policy tends to the opposite effect. D. T. Niles, general secretary of the East Asian Christian Conference, has correctly observed:

"By its present policies and actions, the United States has almost completely destroyed the chances of North Vietnam maintaining its independence from China. It has also destroyed, or almost destroyed, the possibilities of a flexible policy for Russia in Asia. All that has happened is that the hand of China has been tremendously strengthened."

The biggest fallacy of all is the idea that Vietnam is a good place to take a stand, to have it out with Red China once and for all.

Our strong weapons, and the only weapons with which we are equipped to fight a big war, are our navy and airpower and our hydrogen bombs. Their use would mean a war of extermination against 700 million people on a great land mass, and it seems unlikely that they would be finally effective.

What would really be needed would be millions of American soldiers for physically conquering China, and that is the kind of Asian land war against which our military leaders have warned again and again. This is not to mention the likelihood of a final and self-destructive nuclear confrontation with Russia. In our age, the logic of war can end up by turning 180° and destroying itself.

THE 189TH ANNIVERSARY OF INDEPENDENCE DAY IN RHODE ISLAND

Mr. PASTORE. Mr. President, this is May 4—the 189th anniversay of Independence Day in Rhode Island.

On May 4, 1776—2 months ahead of the rest of the Colonies—Rhode Island and the Providence Plantations separated from allegiance to Great Britain.

On that May 4, the General Assembly of Rhode Island closed its declaration of independence with these words:

We are obliged by necessity and it becomes our highest duty to use every means with which God and nature has furnished us in support of our invaluable rights and privileges and to oppose that power which is exerted only for our destruction.

The Governor and company of the Colony replaced the authority of the King and by this act was severed the connection between the Colony and Great Britain.

This was no empty or idle act. Rhode Island was under arms—her men so well trained under Gen. Nathanael Greene that General Washington said of them, "they are the best disciplined and appointed in the whole American Army"—and the historians tell us that their fine equipment was the gift of the gentiles of Providence and the Jews of Newport.

General Greene went on to be Washington's great aide. Greene's money and resourcefulness carried the Army through the terrible winter of Valley Forge.

Later Greene freed the South from the domination of the British Army and grateful South Carolina and Georgia, each made him a gift of a plantation.

In a sense General Greene is our neighbor in the Senate—his statue stands close by—on guard at the disbursing office—and the name of the Revolutionary soldier is borne by our most modern nuclear submarine.

In Statuary Hall today at noon, the sons and daughters of Rhode Island, resident in Washington, gathered to recall that glorious day in their Colony's history. They paid tribute to Roger Williams and the virtues of equality and freedom which developed into the character of the United States-to-be. They saluted General Greene and the valor of the little army of farmers that defeated the British, the finest soldier of that day.

Back home in Rhode Island it is natural that the current observance of Independence Day should include a pilgrimage to the historic homestead of General Greene.

In these disturbing days of world conflict, our country should have a glimpse of the sincerity and simplicity of our national beginnings—American courage and character.

I feel that it is refreshing for all America to see how the local scene is reflected and reported, and I ask unanimous consent that the coverage in the Providence Journal of May 3, 1965, be included in my remarks at this point.

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

INDEPENDENCE OF RHODE ISLAND MARKED AT HOMESTEAD

More than 200 persons attended ceremonies marking the 189th anniversary of Rhode Island Independence at the General Nathanael Greene Homestead in Coventry yesterday.

The sunny, warm spring afternoon lent itself to the colorful outdoor festivities.

Dr. Benjamin Franklin Tefft, president of the General Greene Homestead Association, welcomed the crowd. Behind him in full uniform with shining sabers and plumed helmets, stood members of the Kentish Guards, General Greene's company.

Also in full uniform, with a plumed helmet, but understandably seated, was 102-year-old Clarke Wells, a member of the Guards.

The principal speaker was Comdr. Thomas W. Hall, USN, retired. Mr. Hall spoke on General Greene's role in the Revolutionary War and called the Rhode Island native "the most underestimated man in American history." In outlining General Greene's participation in the war Mr. Hall called him "the strategist" of the American Revolution.

Commander Hall also commended Dr. Tefft for his part in having the Navy commission a nuclear submarine named "the *General Nathanael Greene.*" Dr. Tefft's efforts, Mr. Hall said, were the main reason the submarine was so named.

The program included Indian lore, and Princess Red Wing reminded the audience of the contributions of American Indians who fought for the United States in all its wars.

The princess, in Indian dress, explained the peace pipe ceremony performed by another Indian, Owl's Head.

Three students from Coventry's Washington School, Carol Gendron, Michael Dean, and Patricia Di Franco, all in colonial dress, spoke on the life of General Greene.

Also in colonial dress were 10 West Warwick Junior High School students who performed the stately, formal minuet, with all its slow steps and bows and curtsies.

The dancers were directed by Mrs. E. Virginia O'Connor.

Music was provided by the West Warwick Junior High School Band under the direction of Vincent A. Bucci, Jr. A girls' choir from Christ the King Church, led by Sister Marie Caritas, sang.

The General Nathanael Greene Homestead Association held its annual meeting after ceremonies.

Reelected president was Dr. Tefft. Other officers elected were: first vice president, Col. Howard V. Allen; second vice president, Elmer Bentley; treasurer, Miss Bessie W. Allen; and assistant treasurer, Mrs. Germain Saute.

Reelected to the board of trustees for 3-year terms were Forrest Morgan and Lee V. Spencer.

Mr. Spencer was named chairman of the property committee by the president. Also named to the committee were Thomas Casey Greene, Jr., Colonel Allen, Miss Allen, Richard Meader, and Mrs. Saute.

Named to the house committee were Mrs. Luther Patterson, chairman, and Mrs. F. Richmond Allen, Mrs. Kenneth G. Hall, Mrs. Benjamin B. Meade, and Mrs. Lionel Cardin.

The group decided to join the League of Rhode Island Historical Societies.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON SPECIFICALLY EXEMPTED PROPERTY IN THE DISTRICT OF COLUMBIA

A letter from the President, Board of Commissioners, District of Columbia, reporting, pursuant to law, on specifically exempted property in the District of Columbia, for the calendar year 1964 (with accompanying papers); to the Committee on the District of Columbia.

EQUALIZATION OF RATES OF DISABILITY COMPENSATION PAYABLE TO CERTAIN VETERANS

A letter from the Administrator of Veterans' Affairs, Veterans' Administration, Washington, D.C., transmitting a draft of proposed legislation to equalize the rates of disability compensation payable to veterans of peacetime and wartime service (with an accompanying paper); to the Committee on Finance.

ASSISTANCE TO CERTAIN DISABLED VETERANS

A letter from the Administrator of Veterans' Affairs, Veterans Administration, Washington, D.C., transmitting a draft of proposed legislation to authorize the Administrator of Veterans' Affairs to furnish assistance to certain disabled veterans of the induction period in the purchase of an automobile or other conveyance (with an accompanying paper); to the Committee on Finance.

CONCURRENT RESOLUTION OF SOUTH CAROLINA LEGISLATURE

Mr. RUSSELL of South Carolina. Mr. President, I am deeply concerned over the prospects for cotton legislation this session of Congress. It is imperative that the Congress devise a fair and equitable plan which will continue one-price cotton purchases for the textile industry.

To emphasize the importance of this matter to our State, I ask unanimous consent to have printed in the RECORD a concurrent resolution adopted by the General Assembly of South Carolina. I commend it to Members of the Senate.

There being no objection, the concurrent resolution was referred to the Committee on Agriculture and Forestry, as follows:

CONCURRENT RESOLUTION —

Concurrent resolution memorializing the Congress of the United States to extend the one-price cotton program for the seasons of 1966 and 1967

Whereas the present one-price cotton program makes cotton competitive in price in the domestic market as well as the foreign; and

Whereas it ended the cost advantage to foreign mills which were rapidly taking over domestic markets; and

Whereas the two-price program would destroy many public opportunities and economic activities generated by the great cotton industry: Now, therefore, be it

Resolved by the house of representatives (the senate concurring), That the Congress of the United States is respectfully requested to extend the one-price cotton program for the seasons of 1966 and 1967; and be it further

Resolved, That copies of this resolution be forwarded to the Senators and Members of the House of Representatives in the Congress from South Carolina and to the Secretary of Agriculture.

INEZ WATSON,
Clerk of the House.

EXECUTIVE REPORTS OF A COMMITTEE

The following favorable reports of nominations were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

William C. Foster, of the District of Columbia, to be a deputy representative on the United Nations Disarmament Commission;

Jack Hood Vaughn, of Virginia, to be the representative to the 11th session of the Economic Commission for Latin America of the Economic and Social Council of the United Nations;

Charles W. Adair, Jr., of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Panama;

William R. Tyler, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of the Netherlands;

Nathaniel Davis, of New Jersey, a Foreign Service officer of class 2, to be Envoy Extraordinary and Minister Plenipotentiary to Bulgaria;

Henry J. Tasca, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Morocco; and

Henry A. Hoyt, of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Uruguay.

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. FONG:

S. 1881. A bill for the relief of Dr. Sung Ling Yuan, his wife, Yin Chu Yuan, and their children, Lily Yuan, Hansen Yuan, and Shirley Yuan; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 1882. A bill to amend the Small Business Act and the Small Business Investment Act of 1958; to the Committee on Banking and Currency.

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

By Mr. MOSS:

S. 1883. A bill to amend sections 2275 and 2276 of the Revised Statutes, as amended, with respect to certain lands granted to the States; to the Committee on Interior and Insular Affairs.

By Mr. BURDICK:

S. 1884. A bill to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States on flights between the United States and Canada at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees; to the Committee on Finance.

S. 1885. A bill to amend the postal laws so as to require payment of minimum wages to certain employees of contractors for the transportation of the mails on star routes, highway post office and other mail routes; to require bonds without sureties; to establish standards for the readjustment of compensation of such contractors, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LONG of Missouri:

S. 1886. A bill to prohibit opening of mail by the Internal Revenue Service; to the Committee on Post Office and Civil Service.

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

By Mr. BARTLETT:

S. 1887. A bill for the relief of Stanislaw Borucki; to the Committee on the Judiciary.

By Mr. SPARKMAN (for himself, Mr. PROXMIRE, and Mr. BARTLETT):

S. 1888. A bill to create a Small Business Capital Bank, and for other purposes; to the Committee on Banking and Currency.

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

By Mr. MAGNUSON (by request):

S. 1889. A bill to require the inspection of certain towing vessels; and

S. 1890. A bill to amend the Natural Gas Act to vest jurisdiction in the Federal Power Commission over certain interstate sales of natural gas for industrial use, and for other purposes; to the Committee on Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bills, which appear under separate headings.)

By Mr. JAVITS (for himself, Mr. PROUTY, and Mr. MURPHY):

S. 1891. A bill to provide for the establishment of a permanent Federal Public Assistance Advisory Council; to the Committee on Labor and Public Welfare.

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

By Mr. FONG:

S. 1892. A bill to provide for the gradual reduction and eventual elimination of the tax on communications services over a 4-year period; to the Committee on Finance.

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

By Mr. INOUYE:

S. 1893. A bill for the relief of Mrs. Carolina M. Lacsamana; to the Committee on the Judiciary.

By Mr. ERVIN:

S. 1894. A bill to amend title 28, United States Code, to provide means of redress for the unlawful seizure of American property by foreign governments; to the Committee on the Judiciary.

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

By Mr. HARTKE:

S. 1895. A bill to amend the Consolidated Farmers Home Administration Act of 1961 so as to increase the purposes for which emergency loans may be made under subtitle III of such act; to the Committee on Agriculture and Forestry.

S. 1896. A bill to amend section 3 of the Export Control Act of 1949; to the Committee on Banking and Currency.

(See the remarks of Mr. HARTKE when he introduced the above bills, which appear under separate headings.)

By Mr. DOUGLAS:

S. 1897. A bill for the relief of Michael Blagaich (also known as Marin Blagaic); to the Committee on the Judiciary.

By Mr. FONG:

S. 1898. A bill for the relief of certain aliens; to the Committee on the Judiciary.

By Mr. LONG of Louisiana:

S. 1899. A bill to prescribe a national policy with respect to the acquisition, disposition, and use of proprietary rights in inventions made, and in scientific and technical information obtained, through the expenditure of public funds, and for other purposes; to the Committee on the Judiciary.

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

By Mr. MAGNUSON (by request):

S. 1900. A bill to authorize the President to appoint Gen. William F. McKee (USAF, retired) to the office of Administrator of the Federal Aviation Agency; and

S. 1901. A bill to authorize appropriations for procurement of small patrol cutters for the Coast Guard; to the Committee on Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bills, which appear under separate headings.)

By Mr. RANDOLPH:

S.J. Res. 76. Joint resolution to provide for the formulation, adoption, administration, and periodic updating of a long-range land use plan for the U.S. Capitol Grounds and contiguous related and influencing areas; to the Committee on Public Works.

AMENDMENT OF SMALL BUSINESS ACT AND SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. PROXMIRE. Mr. President, I introduce, for appropriate reference, the administration's bill to amend the Small Business Act and the Small Business Investment Act of 1958.

Section 1 of this bill would amend section 4(c) of the Small Business Act to increase the total of SBA's revolving fund to $1,836 million, an increase of $170 million. This increase includes an increase of $50 million for use of SBA's regular business loan program, the disaster loan program, the loan program authorized by title IV of the Economic Opportunity Act of 1964, and the program empowering SBA to enter into prime contracts. This latter authority has never been used. SBA estimates that this increase in authorization will be sufficient authorization to enable it to continue these programs through June 30, 1968—3 years from the end of the current fiscal year.

The bill would delete from the Small Business Act the Saltonstall amendment, which requires reports from SBA to the Appropriations Committees and Banking and Currency Committees of the House and Senate whenever the aggregate amount outstanding for business loans and disaster loans exceeds specified limitations.

The bill would also increase the amount of the authorization for SBA's revolving fund which may be outstanding at any one time for the programs under the Small Business Investment Act of 1958 by $120 million. It is estimated that this will enable SBA to continue these programs through June 1966—1 year from the end of the current fiscal year.

Section 2 of the bill would amend section 5(c) of the Small Business Act to eliminate the existing $50 per day limitation which SBA is authorized to pay for the temporary services of experts and consultants and to provide, in substance, that compensation for such services is to be governed by the compensation schedule established by the Classification Act of 1949, as amended.

This section would permit SBA to conform to travel and subsistence expenses allowable to such personnel to the general Government standards established under the Administrative Expenses Act of 1946.

Section 3 of the bill would amend section 7 of the Small Business Act to increase the maturity of disaster loans made for the purpose of replacing, reconstructing, or repairing dwellings under 7(b)(1) of the Small Business Act from 20 to 30 years. However, section 7(c) of the Small Business Act, which permits an additional 10-year renewal of the loan for orderly liquidation, would not apply to any disaster loan under subsection 7(b) of the act with a maturity of over 20 years.

Section 4(a) would amend section 201 of the Small Business Investment Act of 1958. The 1958 act provides that all authority conferred on SBA under the act shall be administered by the Small Business Investment Division. This amendment would exempt from this requirement title V of the 1958 Act, which authorizes SBA to make loans to State and local development companies. The power to administer title V of the 1958 act would revert to the Administrator of SBA.

Section 4 (b) and (c) of the bill would repeal section 501 of the Small Business Investment Act of 1958, which authorizes SBA to make loans to State development companies. SBA would continue to be able to make loans to State development companies under section 502 of the act.

Mr. President, this bill contains increases in authorizations to SBA's revolving fund needed for the continuing operations of its lending programs. SBA is coming dangerously close to exhausting its authorization for its programs under the Small Business Investment Act of 1958.

It also contains some needed housekeeping changes in both the Small Business Act and the Small Business Investment Act of 1958.

As chairman of the Small Business Subcommittee of the Senate Banking and Currency Committee, I plan to hold hearings on this bill in the near future. There are several provisions of the bill which will require careful examination. For example, I intend to thoroughly explore the justification behind the SBA's estimate that an additional authorization of $120 million for their Small Business Investment Act revolving fund will be sufficient for only one additional year of operations. I also believe the suggested deletion of the Saltonstall amendment should fully be justified in view of the fact that it has never been necessary to use this provision, which, consequently, would not seem to impose an unusually onerous requirement. Finally the proposed repeal of section 501 of the Small Business Investment Act, raises serious questions of policy which the Small Business subcommittee will go into during hearings.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, the text of the bill and a section-by-section analysis of the bill.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The bill will be received and appropriately referred; and, without objection, the bill and section-by-section analysis will be printed in the RECORD.

The bill (S. 1882) to amend the Small Business Act and the Small Business Investment Act of 1958, introduced by Mr. PROXMIRE, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 1882

A bill to amend the Small Business Act and the Small Business Investment Act of 1958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(c) of the Small Business Act is amended—

(1) by striking out "$1,666,000,000" and inserting in lieu thereof "$1,836,000,000";

(2) by striking out the fourth sentence and inserting in lieu thereof "Not to exceed an aggregate of $1,375,000,000 shall be outstanding at any one time for the purposes enumerated in the following sections of this Act: 7(a) (relating to regular business loans), 7(b) (relating to disaster loans), and 8(a) (relating to prime contract authority)."; and

(3) by striking out "$341,000,000" and inserting in lieu thereof "$461,000,000".

SEC. 2. Section 5(c) of the Small Business Act is amended to read as follows:

"The Administrator is authorized to procure services in accordance with section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55(a)). While any individual providing such services is away from his home or regular place of business, he may be allowed transportation expenses and per diem in lieu of subsistence and other expenses, as provided in section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73 b–2)."

SEC. 3. Section 7 of the Small Business Act is amended—

(1) by striking out the period at the end of the second sentence of subsection (b) and by adding to such sentence the following: "except that loans made for the purpose of replacing, reconstructing, or repairing dwellings may, in cases deemed necessary or appropriate by the Administration, have a maturity of up to thirty years."

(2) by adding to subsection (c) the following sentence:

"However, the provisions of this subsection shall not be applicable to any loan made, pursuant to subsection (b), for a term of more than twenty years."

SEC. 4. (a) Section 201 of the Small Business Investment Act of 1958 is amended by striking out the third sentence and inserting in lieu thereof the following: "The powers conferred by this Act upon the Administration and upon the Administrator, with the exception of those conferred by Title V hereof, shall be exercised through the Small Business Investment Division and through the Deputy Administrator appointed hereunder. The powers conferred by this Act upon the Administration and upon the Administrator by Title V hereof, shall be exercised through such division, section or other personnel as the Administrator in his discretion shall determine."

(b) Section 502 of such Act is amended by striking out of the first sentence the following: ", in addition to its authority under section 501,".

(c) Section 501 of such Act is repealed.

The section-by-section analysis presented by Mr. PROXMIRE is as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 of the bill would effect four amendments to the provisions of section 4(c) of the Small Business Act governing the revolving fund authorization of the Small Business Administration. The first of these amendments would increase the total amount of the fund from $1,666 million to $1,836 million. The second would increase from $1,325 million to $1,375 million the amount of the total fund which may be outstanding at any one time for the purposes of the business loan program embodied in section 7(a) of the Small Business Act, the disaster loan programs embodied in section 7(b), the prime contract program embodied in section 8(a), and the program of loans to small business concerns as authorized by title IV of the Economic Opportunity Act of 1964 (Public Law 88–452). The third amendment would delete the proviso which calls for reports to the Appropriations and Banking and Currency Committees whenever the aggregate amount outstanding for business loans and prime contracts or for disaster loans exceeds specified limitations. The fourth amendment would increase from $341 million to $461 million the amount of the total fund which may be outstanding at any one time for the exercise of the functions of SBA under the Small Business Investment Act of 1958.

The reasons for the proposed increase in the $1,325 million figure are to be found in the legislative history of the statute (Public Law 87–550) which initially established this combined authorization for the three programs specified in sections 7(a), 7(b), and 8(a) of the Small Business Act (which authorization has been subsequently expanded as indicated above to include title IV loans under the Economic Opportunity Act of 1964). The conference report accompanying the bill (S. 2970) which became Public Law 87–550 contains the following declaration of intent:

"The combined increased authorization * * * is intended to meet estimated needs for a 2-year period (fiscal 1963 and 1964) * * *. The agreement of the conferees upon this increased authorization was predicated upon their belief that SBA's business loan program should be reviewed at least every 2 years. In order to assure adequate time for consideration, the estimated business loan program needs for SBA for an additional 2 years should be submitted to the new Congress when it convenes in January 1963, and this process then should be repeated as necessary every 2 years as each new Congress convenes in order to provide for an orderly and recurring review of this program by the Congress and to avoid emergency appeals by SBA for additional authorization." (H. Rept. No. 1974, 87th Cong., 2d sess.)

In accordance with this expression of intent a review has been conducted to determine the probable requirements of the section 7(a) business loan program through June 30, 1968. The resulting calculations based on a straight-line projection of the fiscal year 1966 budget estimates indicate that an authorization of about $1,041 million will be needed for this purpose. The probable requirements of the business loan program leave only $284 million of the existing combined authorization available for the other programs covered by it.

Thus, in order to determine whether $284 million is adequate, it is necessary also to project through June 30, 1968, the requirements for disaster loans and for Economic Opportunity Act loans to business firms.

In light of our recent experience and the trend in urban renewal and highway construction activities, it is estimated that new disaster loan commitments will approximate $50 million in each of fiscal years 1967 and 1968. After taking into consideration repayments and cancellations, a net impact of $32.2 million on the disaster loan authority is projected over the 2-year period. Added to the $196.1 million of outstanding disaster loans and commitments estimated as of June 30, 1966, this net increase of $32.2 million indicates a need for disaster loan authority of slightly over $228 million as of June 30, 1968.

The program of business loans under the Economic Opportunity Act is just getting underway and consequently very limited experience is available to support long-range projections. On the basis of the legislative history of this program and the rate of growth experienced by SBA with its revised small loan program, current projections are that the application volume for these loans will reach an average of 800 cases per month in 1968. At this level, it is estimated that total loans and commitments outstanding for this program would aggregate about $89 million by June 30, 1968.

The projected requirements for all three programs involved indicate a need for a combined authorization of $1,358 million. In order to provide a margin of safety (disaster loans cannot be estimated and the Economic Opportunity Act program is just getting underway), it is recommended that the total be increased to $1,375 million. Accordingly, the existing combined authorization should, as proposed by section 1 of the bill, be increased in the amount of $50 million.

In the interests of administrative simplicity, it is recommended that the reporting limitations added by Public Law 87–550 in 1962 be eliminated from section 4(c). This recommendation is made in full awareness of the reasoning which led to the addition of these limitations in conjunction with the approval of a combined authorization in lieu of the previous separate ones for business loans and prime contracts and for disaster loans. It is believed that these provisions are unnecessary, either to insure that SBA will meet the loan needs of disaster victims, for example, or to inform appropriate committees of the Congress of the relative amounts of loans and commitments outstanding.

Concerning the latter point, information as to the respective amounts charged against the combined authorization is furnished to the Congress and committees thereof through the medium of two official documents—the President's annual budget document and the annual report of the agency required by section 10 of the Small Business Act. The budget document reflects the amounts as of June 30 of the past year and projections for 2 years. The agency's annual report reflects actual figures as of December 31 of the year covered by the report. In addition, in the course of the hearings on the agency's budget, discussion is held on the status of the revolving fund and the charges against the statutory authorizations.

There is apparently a belief that the provision for a separate authorization or the establishment of a reporting limitation either provides funds for a particular program or reserves existing funds therefor.

This is not the case, however. SBA's policy has always considered disaster loans as being in the top priority category. Except for one or two instances in the early days of the agency, it has been the lack of funds and not the lack of authorization that has made it necessary to curtail lending operations on occasions. However, in no instance has there been a curtailment of disaster loans.

The fourth amendment proposed by section 1 of the bill, increasing from $341 million to $461 million the amount of the total fund which may be outstanding at any one time for the exercise of the functions of SBA under the Small Business Investment Act of 1958, is based upon a projection of requirements through June 30, 1966. It is estimated that, as of the latter date, loans and commitments chargeable against this separate statutory authority will aggregate the cited amount of $461 million.

Action to increase this authorization is needed in the near future since the present amount of $341 million is estimated to be adequate to meet requirements only until approximately May 15, 1965.

SECTION 2

Section 2 of the bill would amend section 5(c) of the Small Business Act to eliminate the existing $50 limitation on the per diem rate which SBA is authorized to pay for the temporary or intermittent services of experts and consultants and to provide, in substance, that compensation for such services is to be governed by the compensation schedule for the general schedule established in the Classification Act of 1949, as amended.

The immediate effect would be to permit a per diem rate of up to aproximately $84.03. As Classification Act salaries are increased in the future, a commensurate increase follow automatically for the permissible per diem. By bringing the maximum rate closer to the rate prevailing in private industry, this amendment would enhance the opportunities of SBA to obtain such assistance from the best sources.

Another effect of section 2 of the bill would be to conform the travel and subsistence expenses allowable to such personnel to the general Government standards established under the Administrative Expenses Act of 1946.

SECTION 3

Section 3 of the bill would authorize the administration, in cases deemed necessary or appropriate, to permit a maturity of up to 30 years on loans made, pursuant to section 7(b)(1) of the Small Business Act, for the purpose of replacing, reconstructing, or repairing dwellings. Under the existing provisions of section 7(b)(1), the maximum term on all loans made thereunder is 20 years.

In many cases a person whose home has been destroyed or extensively damaged is reduced to serious financial straits. Although his resources may be very limited, he must find some means of financing replacement or repair and, at the same time, continue meeting his existing mortgage obligations. Thus SBA is often compelled to refuse a loan because the applicant cannot demonstrate ability to repay on a 20-year amortization basis. The proposed amendment, authorizing repayments in smaller installments spread over a longer period, will permit the agency to meet the needs of these people and of others for whom the existing maximum would entail extreme hardship.

SECTION 4(a)

Section 4(a) of the bill proposes a change in the requirement of the Small Business

Investment Act of 1958 that all authority conferred under the act upon the Small Business Administration be administered through the Small Business Investment Division. The sole effect of the amendment would be to except from this requirement title V of the act, which authorizes SBA to make loans to State development companies and to local development companies.

When the Small Business Investment Act of 1958 was enacted, an Office of Deputy Administrator for Investment and a Small Business Investment Division were created within the Small Business Administration to handle the small business investment company program. Responsibility for title V loans to State and local development companies was also vested in them because it was contemplated that many of the State and local development companies would convert into small business investment companies. Title IV of the act permitted such conversion until July 1, 1961. No such conversions took place. This deadline has not been extended and title IV of the act is now obsolete.

The anticipated close connection between State and local development companies and small business investment companies has not eventuated and there is no longer any need for title V loans to be under the authority of the Deputy Administrator for Invesment and the Small Business Investment Division.

Furthermore, this needless restriction on its authority deprives SBA of a satisfactory means of utilizing for the purposes of the title V loan program the facilities and staff maintained by the agency to carry on its lending operations under the Small Business Act and related legislation. In order to meet the growing title V workload, it is essential that the services of all available and qualified personnel of the agency be brought into play.

Another factor to be considered in connection with section 4(a) of the bill is that title V financing, though extended for the benefit of individual small business concerns, is oriented in a special way toward a broader objective—the improvement of economic conditions in a particular community, primarily by the creation of new job opportunities. In this regard such financing bears a strong resemblance to the work performed by SBA in furtherance of the lending operations of the Area Redevelopment Administration and to the activities SBA is conducting under the President's program to eliminate poverty. Consolidation of these three related economic development activities is desirable. The existing requirement that title V be administered only through the instrumentality of the Investment Division impedes progress in this direction.

The transfer of authority proposed by section 4(a) of the bill would be in accordance with the general administrative principle, stressed in various Hoover Commission reports, that power should be given to agency heads with discretionary authority to delegate to subordinates.

SECTIONS 4(B) AND 4(C)

Sections 4(b) and 4(c) of the bill would repeal section 501 of the Small Business Investment Act of 1958. The latter section authorizes SBA to make loans to State development companies so that they may use the proceeds to provide small business with equity capital and with long-term loans.

Insofar as equity capital is concerned the purpose of section 501 has not been achieved. To date no such State development company has used 501 funds to provide this form of assistance to small firms. There appears to be little likelihood of a change in the situation. Indeed, as small business investment companies grow in both numbers and strength to provide an increasing source of equity capital for small business, State development companies will probably be even less inclined than they are at present to consider small business needs in this area.

In practical effect, therefore, section 501 has become merely a means of generating long-term loans for small business. Viewed in this light it overlaps the provisions of section 502 of the act authorizing SBA to extend loans up to 20 years to development companies, including State development companies, to assist small firms in the construction, conversion, or expansion of plants. This overlap serves to create needless confusion.

The repeal of section 501 would further the policy of the President to eliminate all Government programs which are not achieving the purposes for which they were established or which have outlived their usefulness.

PROHIBITION OF OPENING MAIL BY INTERNAL REVENUE SERVICE

Mr. LONG of Missouri. Mr. President, rarely before in my career, in local, State, or Federal Government, have I been so shocked, disgusted, and dismayed as during our current investigation of invasions of privacy of American citizens by Federal agencies.

Since the investigation started, we have learned more than a little about the snooping techniques employed by some of these agencies. Such snooping techniques include mail covers, peepholes, two-way mirrors, concealed tape recorders, and surreptitious transmitters and receivers.

These devices, along with other practices, have been used at times to invade not only the statutory rights of individuals, but also the rights guaranteed to the individual by the first, fourth, fifth, and sixth amendments of our Constitution.

Only recently it was discovered that the Internal Revenue Service has been seizing mail and opening it in an attempt to collect delinquent taxes. The seizures were not limited to mail that was second-, third-, or fourth-class mail or even business mail. First-class, personal mail was equally subject to seizure, many times having no relation to the individual's tax matters.

The Senate should know the authority IRS claims—and I repeat claims—to have for this practice. IRS claims their authority to seize first class mail and open it was given to them by none other than the Congress itself. According to IRS, we are responsible for this disgusting practice.

Yet, when asked to specify the explicit mandate of Congress, IRS renders an explanation so circuitous, so questionable, and so weighted down with irrelevances, half truths, that it reaches new heights in legal legerdemain. In truth, it is a perfect example of lifting oneself by a legal skyhook.

I cannot help but believe that the IRS knows as well as we know that we never intended for them to open first class mail.

How can it be otherwise? The purport of the IRS position on these mail levies—as they call them—is that Congress has authorized what would clearly seem to be unconstitutional activity, and for the sake of collecting taxes. Further, they must admit that in any event Congress has done so only implicitly, not explicitly.

That is, there is no expressed statutory mandate anywhere that requires, permits or intimates that Congress ordered IRS to levy upon and seize mail matter of any class. To say, as IRS does, that because Congress did not specifically exempt mail matter from the property subject to levy and seizure under title 26 U.S.C. 6334 that thereby Congress meant to include mail matter within the property subject to levy and seizure is, at best, highly questionable reasoning.

It would be less difficult to swallow such a position if it did not fly in the face of title 18 United States Code 1701, 1702, and 1703, and of the fourth amendment of the Constitution, and the decision of the Supreme Court in *Ex Parte Jackson*, 96 U.S. 727 (1877). In that case, the Supreme Court held that first-class mail is entitled to the same constitutional guarantees of the fourth amendment as is a man's other papers and possessions. As we all know, the fourth amendment requires a search warrant which is sworn to before a judge or Federal commissioner before any paper or property can be taken or even seen. I would like to quote briefly from that decision. At page 733—of 96 U.S.—Mr. Justice Field stated:

> Letters and sealed packages of this kind in the mail are as fully guarded from examination and inspection * * * as if they were retained by the parties forwarding them in their own domiciles. The constitutional guaranty of the right of the people to be secure in their papers against unreasonable searches and seizures extends to their papers, thus closed against inspection, wherever they may be. Whilst in the mail, they can only be opened and examined under like warrant, issued upon similar oath or affirmation, particularly describing the thing to be seized, as is required when papers are subjected to search in one's own household. No law of Congress can place in the hands of officials connected with the postal service any authority to invade the secrecy of letters and such sealed packages in the mail; and all regulations adopted as to mail matter of this kind must be in subordination to the great principle embodied in the fourth amendment of the Constitution.

It may also be of interest to the Senate, that there are no court decisions authorizing or recognizing the interpretation of 26 United States Code 6334 placed on it by the Internal Revenue Service. In other words, the only authority Internal Revenue Service has to levy upon and seize first-class mail and to open it, is the authority they themselves have constructed by a legal hammer and nail approach.

Indeed, if IRS's reasoning is to be followed to the letter, does the Senate realize that property such as crutches, Bibles, even human blood could be subject to levy and seizure to pay off delinquent taxes. These items are not specifically exempt from section 6334 either, and thus Congress must have meant to have them subject to the section, and thus able to be seized and sold to pay off taxes.

It may be that IRS has to use its ingenuity to collect all taxes due to the Government. But this does not mean that

IRS can arrogate to itself authority to practice unconstitutional methods to collect taxes or that it can practice such methods in face of possible violations of the criminal code of the United States.

Mr. President, today I introduce legislation, for reference to the proper committee, that will clarify beyond question the position of Congress in this matter. This bill would specifically exclude mail matter from the levy powers of the Internal Revenue Service.

It is of interest to note that both Postmaster General Gronouski and Secretary Fowler are giving their support to this legislation.

As I know that a number of my colleagues on both sides of the aisle have evinced an interest in cosponsoring this bill, I ask that it lie on the table for 2 calendar weeks so that Senators may study it and possibly join in sponsorship. I also ask unanimous consent that the bill be printed at this point in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD, and will lie on the table, as requested.

The bill (S. 1886) to prohibit opening of mail by the Internal Revenue Service, introduced by Mr. LONG of Missouri, was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6334(a) of title 26, United States Code, is amended by adding the new subsection (5) as follows:

"(5) Mail of all classes, except mail which (i) has been delivered by the Postal Service to a business or firm which has been seized by the Internal Revenue Service under sections 6331 or 7403(d) of this title, and (ii) which is clearly business, and not personal, mail. In cases of opening of mail delivered to a business or firm, the former owner or proprietor or designee thereof shall be afforded an opportunity to be present at such opening."

Mr. ERVIN. Mr. President, I wish to commend my colleague, the junior Senator from Missouri, for his prompt action in developing and introducing this measure designed to eliminate threats to and to safeguard the right to privacy guaranteed every American under the Constitution. The Senator from Missouri, who is chairman of the Subcommittee on Administrative Practice and Procedure, has recently conducted a series of hearings on the invasion of privacy by Government agencies. These hearings have focused public attention on some very insidious and dubious practices engaged in by governmental agencies. In so doing, these hearings have helped make the American public aware of the many ways in which their rights to privacy can be and are being threatened by their own governmental agencies.

This measure which was just introduced is directed at two of the many dubious practices revealed by the subcommittee's hearings; namely, rerouting of letters by the Post Office Department and the opening of mail by the Internal Revenue Service. While I have not had an opportunity to examine as carefully as I would like every aspect of this bill at this time, I do want to register my approval of the thrust of this measure and my disapproval of the repugnant practices which it is designed to remedy.

Certainly, no agency of the Federal Government should arrogate to itself the power or authority to open an individual's letters without his consent, nor should the Post Office deliver such mail to anyone other than the person to whom the letter was addressed. And if such authority is implied by statute as has been argued, this statutory provision should be modified. It was against practices such as mail seizure, mail covers, lie detectors, electronic eavesdropping, and other forms of snooping that our forefathers erected the bulwark of the Bill of Rights.

Under our Constitution and in the history of its interpretation, it is manifestly clear that the Federal Government is limited in its powers over the individual citizen. The powers withheld from government, or, to put it another way, the liberties guaranteed each citizen, were set forth to guarantee to the individual that those things personal to him shall at all times be free from Government interference. Virtually all rights enumerated in the Constitution contribute to the right to privacy if this right means integrity and the freedom of an individual.

As Americans, we need to refresh our minds and our hearts with the principles underlying these guarantees.

Far too often we accept the invasions of our private lives and thoughts, the deprivations of our personal liberties, without so much as a backward glance. Accustomed to the demands of an orderly, efficient machine that is our Government, too often we succumb passively to bureaucratic shortcuts which result in invasions of the rights of individuals. And so inured are we that seldom is even one voice raised in protest until the evil is rampant.

A case in point is our Government's use of psychological personality tests in the hiring, firing, and promotion of employees. In many agencies, careers may hang on the answers to questions which leave no thought or dream or religious or moral belief unexamined, and which expose the personality of individuals to the curious eyes of all who have access to Government files.

The Subcommittee on Constitutional Rights has been studying this aspect of governmental invasion of privacy and the expertise of my colleague from Missouri, who is also a member of the subcommittee, will be invaluable to our study and hearings, which I shall schedule in the very near future.

SMALL BUSINESS CAPITAL BANK

Mr. SPARKMAN. Mr. President, on behalf of the senior Senator from Wisconsin and myself, I am today introducing a bill to establish a Small Business Capital Bank.

In simplest terms, this new institution would greatly increase the amount of equity capital and long-term financing available for qualified small business firms. It would do this by providing a secondary source of funds for small business investment companies.

The SBIC program is now almost 7 years old. When Congress passed the Small Business Investment Act of 1958, it acted in the hope that the privately organized and privately managed SBIC's, licensed by the Federal Government, would be effective instruments for carrying out the national goal of eliminating the "equity gap" facing small businesses.

Those of us who sponsored the original legislation have followed the progress of the program closely and believe that the SBIC's have made a significant contribution to the solution of the difficult and crucial small business financing problem. Naturally, there have been rough spots, some of which Congress has helped smooth by amendments to the basic 1958 act or by changes in the Internal Revenue Code.

It now appears the SBIC's are well-equipped to step up their efforts; they have acquired important management skills. Many SBIC's have shown themselves able to discern the potential for growth in men and in businesses. With the addition of SBIC funds, these qualified small businesses employ more people, provide better goods and services, and earn higher profits. When this happens, the independent businessman, the SBIC, and the Nation all gain.

Unfortunately, however, all the active SBIC's are now either out of funds to invest or are rapidly approaching that point. During the past 3 years, they—in common with almost every other small business—have been unable to raise capital through a public sale of stock. Bringing additional private capital into the program has also been a slow and difficult process during these formative years.

Compounding the problem has been the almost universal lack of success SBIC's have had in borrowing to augment their resources. Except for the limited funds directly available from the Small Business Administration, the SBIC's have not found any major institutional sources of borrowed dollars.

According to the latest data available from the Small Business Administration, SBIC's had outstanding borrowings of somewhat over $215 million on March 31, 1964. Of this amount, over $180 million came from SBA directly or from private lenders who received a 24-hour takeout guarantee from SBA. On the same date, the more than 650 reporting SBIC's had been able to borrow about $35 million from all private sources.

Therefore, it is apparent that Congress and the industry must find some way to channel additional funds to the active SBIC's if they are to continue to finance those small businesses which require equity capital and long-term credit.

The bill which Senator PROXMIRE and I are introducing today proposes an institutional source of funds, the Small Business Capital Bank, for SBIC's. Although the Small Business Capital Bank will receive its initial capital from the U.S. Government, the great bulk of its resources will come from sale of its obligations to private investors. We be-

lieve that this plan has sound precedents, based on our study of such agencies as the Banks for Cooperatives, Federal National Mortgage Association, and the Farm Credit Administration. As is the case with these other institutions, our bill also provides that the Government's stock will be repurchased as soon as possible from the profits of the Capital Bank. Simultaneously, the SBIC's making use of the Bank will utilize a portion of their borrowings to purchase common stock of the Bank.

It should be pointed out that the $50 million subscribed by the Secretary of the Treasury for the purchase of preferred stock will be simultaneously offset by a $50 million reduction in the SBA revolving fund. Thus, the Federal Government will avoid making any additional contribution of dollars to the SBIC program.

Our bill contains one other provision which lessens the total call of the SBIC program on the Federal Government. This calls for the end of SBA's authority to make direct loans to SBIC's under section 303(b) of the Small Business Investment Act 5 years after the passage of the Capital Bank bill.

I stress these features of the proposal, since both Senator PROXMIRE and I are concerned with the impact on Federal spending of all programs considered by Congress.

On the other hand, the studies of the Senate Small Business Committee and of the Small Business Subcommittee of the Senate Banking and Currency Committee have convinced me that the SBIC program has brought millions of extra dollars of revenue to the Federal Treasury through taxes on businesses which have been helped by SBIC financing. Increased profits and increased payrolls go hand-in-hand with every successful SBIC financing. A switch from red ink to black occurs when an SBIC is able to render effective assistance to a struggling or new business. No data are available to quantify this return to the Treasury, but we are certain it is substantial.

Incidentally, SBIC's already pay at least 5 percent for the money they borrow from SBA, and the agency's cost of administering the SBIC program is almost completely paid for by the difference between SBA's cost of money and the interest it charges, as well as by fees levied on SBIC's by the agency.

Since I shall ask that a section-by-section analysis of the bill be printed following my remarks, I shall not deal at length with the organization of the Small Business Capital Bank or with its operating authority. Several major points might be noted, however.

The Capital Bank will be made a separate Division of the Small Business Administration, just as the Investment Division itself was authorized by the Small Business Investment Act of 1958. The Executive Director of the Bank will be a Deputy Administrator of SBA, as well as a member of the Bank's Board of Governors. Other Governors will include the Administrator of SBA, the Deputy Administrator of SBA for Investment, and the Secretary of the Treasury. The other members of the Board of Governors will be appointed by the President, subject to confirmation by the Senate.

At the outset, there will be four Government officials on the Board and three other Governors appointed by the President. It is apparent, then, that the Federal Government will be in a position to direct the Bank's operations, since a majority of the Governors will be Federal officials and the Bank itself will be an executive agency under the Small Business Administration.

The bill further provides that, when all of the Bank's preferred stock is retired, the President shall appoint two additional members to the Board. This authority sets up a mechanism for the eventual transfer of control of the Bank from the Federal Government to private ownership, thus contributing to the accomplishment of our longstanding goal of making the SBIC program operate with a minimum of Government support.

The Bank's initial capital will be, as I have mentioned, raised by the sale of $50 million of preferred stock to the Secretary of the Treasury. Additional capital will be obtained by the sale of common stock to SBIC's which receive funds from the Bank. We provide that a maximum of $100 million in common stock be authorized.

The bill further gives the Bank the power to sell up to $1 billion of its obligations to the public, thus bringing the total maximum resources of the Bank to $1.15 billion. Since SBIC's have an estimated $750 million in resources today, this will more than double the dollars available to the program.

The obligations of the Capital Bank will be backed by authority vested in the Secretary of the Treasury to purchase any such paper. Here again, we have borrowed from the legislation under which Fannie Mae operates. We are convinced that this backup authority is imperative to the Bank's success.

The Board of Governors of the Small Business Capital Bank will establish appropriate criteria of eligibility which SBIC's will have to meet before they can borrow from the Bank. The Board will also set an interest rate on its loans which will cover its cost of money and its administrative expenses, as well as providing for a reserve to cover it against possible losses.

The Bank will usually make loans to SBIC's, but the bill gives it authority to purchase stock in SBIC's if it feels that such a step is in the best interests of the program and of the Bank.

Let me conclude by summarizing my reasons for sponsoring this legislative proposal:

First. I believe that the SBIC program has proven itself sound in concept and in operation. Throughout a generation prior to 1958, all students of the subject were convinced there was an "equity gap" for new and small businesses. The SBIC program was the first attempt to institutionalize an attack on the problem and the record of the past 7 years shows that a promising start has been made.

Second. Active and alert SBIC's have demonstrated that there is an effective demand for this type of financing and that there are far more legitimate claimants than can be accommodated with the present resources of the program. Therefore, these SBIC's must find a way to obtain more dollars if they are to meet the requirements of the independent businessman who wishes to compete and to grow.

Third. Private loans to individual SBIC's have not materialized to any significant extent. The Small Business Capital Bank will provide a means for institutional lenders to lend their dollars safely to SBIC's through the bank. Obviously the Capital Bank will also give each purchaser of its debentures the security which comes through diversification of risk. The bank will assume the administrative burden of managing its portfolio, a further benefit for the institutional lender, the trust manager, the insurance company, the pension fund, or the individual. For these reasons, as well as because of the Federal backup, we firmly believe that sources of funds will be available to the Small Business Capital Bank which could never be tapped by the individual SBIC.

Fourth. Experience has shown that SBIC's, in common with other financial institutions, must be able to leverage their dollars if they are to show a decent return on their capital. The Capital Bank provides a mechanism for channeling borrowed dollars to SBIC's with a minimum of Federal outlay.

Fifth. The Capital Bank is designed to permit an exit for the Federal Government as its stock is retired. It is my hope that this bank will ultimately become 100 percent privately financed, as other similar institutions have cast off their dependence on Federal backing.

On September 16, 1964, I introduced a Small Business Capital Bank bill. I said then that I was taking the action in order to provide a basis for discussion. Both Senator PROXMIRE and I have received a number of comments based on the earlier proposal, and the bill we are introducing today incorporates a number of changes from the earlier version. We believe it is a better bill and one which will do the job more effectively and more efficiently.

I hope that Congress will be able to consider and act favorably upon this legislation during the present session.

Mr. President, I ask unanimous consent that the section-by-section analysis of the bill and the bill itself be printed at the conclusion of my remarks. I ask that the bill be received and appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and section-by-section analysis will be printed in the RECORD.

The bill (S. 1888) to create a Small Business Capital Bank, and for other purposes, introduced by Mr. SPARKMAN (for himself and Mr. PROXMIRE), was received, read twice by its title, referred to the Committee on Banking and Currency,

and ordered to be printed in the RECORD, as follows:

S. 1888

A bill to create a Small Business Capital Bank, and for other purposes

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

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE, AND DEFINITIONS

Short title

SEC. 11. This Act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Capital Bank Act."

TABLE OF CONTENTS

STATEMENT OF PURPOSE

SEC. 12. (a) The Congress hereby finds that there is an increasing need among small business investment companies for funds to increase their operations to the end of providing additional funds to the small business concerns of this Nation in order to promote and facilitate their growth, expansion, and modernization; that this need must be met in the interest of a sound national economy; and that the funds which are presently available to small business investment companies from the Federal Government and from other public and private sources are insufficient to meet this need.

(b) It is therefore declared to be the policy of the Congress and the purpose of this Act to improve and stimulate the national economy in general and the small business segment thereof in particular by establishing a Small Business Capital Bank to serve as a secondary source of funds for small business investment companies in order to enable such companies to provide to the small business concerns of this Nation the equity capital and long-term loan funds which they need for the sound financing of their business operations and for their growth, expansion, and modernization.

DEFINITIONS

SEC. 13. As used in this Act—

(1) the term "Bank" means the Small Business Capital Bank established under section 21 or any branch thereof;

(2) the term "Board" means the Board of Governors of the Small Business Capital Bank;

(3) the term "small business investment company" means a company licensed by the Small Business Administration and operating under the Small Business Investment Act of 1958, as amended;

(4) the term "small business concern" shall have the same meaning as in the Small Business Investment Act of 1958, as amended, and in the regulations promulgated thereunder by the Small Business Administration.

TITLE II—ESTABLISHMENT OF SMALL BUSINESS CAPITAL BANK

Establishment of the Bank

SEC. 21. There is hereby established in the Small Business Administration a division to be known as the Small Business Capital Bank Division. The Division shall be headed by a Deputy Administrator who shall be appointed by the Administrator, and shall receive compensation at the rate provided by law for other deputy administrators of the Small Business Administration.

Board of Governors

SEC. 22. (a) The management of the Bank shall be vested in a Board of Governors consisting of seven members. The Secretary of the Treasury, the Administrator of the Small Business Administration, the Deputy Administrator for Investment of the Small Business Administration, and the Deputy Administrator for the Small Business Capital Bank of the Small Business Administration shall serve as members of the Board. The remaining three members of the Board shall be appointed by the President by and with the advice and consent of the Senate. In making such appointments, the President shall have due regard to a fair representation of the public interest as well as of the particular interests and needs of small business investment companies and the special contributions which can be made by such companies to the sound development of the national economy.

(b) Each member of the Board appointed by the President shall be appointed for a term of six years; except that (1) of the three members first appointed by the President, one shall be appointed for a term of two years, one for a term of four years, and one for a term of six years, as designated by the President at the time of appointment, and (2) any member appointed to fill a vacancy shall be appointed only for the unexpired portion of his predecessor's term.

(c) Each member of the Board shall be a citizen of the United States and shall receive the sum of $100 for each day or part thereof spent in the performance of his official duties: *Provided, however,* That such per diem compensation shall not be paid to the officials of the Federal Government. In addition to receiving such per diem compensation, each member of the Board, including the officials of the Federal Government, shall be reimbursed for necessary travel, subsistence, and other expenses actually incurred in the discharge of his duties as such member, without regard to any other laws relating to allowances for such expenses.

(d) As soon as practicable after the first members of the Board have been appointed as provided in subsection (a), the members shall meet, subscribe to the oath of office, and organize by electing from among the membership a Chairman, a Vice Chairman and a Secretary. The Chairman, Vice Chairman and Secretary shall be elected annually for terms of one year, and shall serve until their respective successors are elected and take office. The Chairman shall preside at all meetings and the Vice Chairman shall preside in the absence or disability of the Chairman. The Board may, in the absence or disability of both the Chairman and Vice-Chairman, elect any of its members to act as Chairman pro tempore. Four members shall constitute a quorum of the Board for the transaction of business, and the Board may function notwithstanding vacancies provided a quorum is present. The Board shall meet at such times and places as it may fix and determine, but shall hold at least six regularly scheduled meetings a year; and special meetings may be held on call of the Chairman or any three members.

(e) Immediately upon the complete redemption of the preferred stock of the Bank as provided in section 32(d), the President shall, with the advice and consent of the Senate, appoint two additional members to the Board of Governors of the Bank to serve for six-year terms, thereby increasing the membership of said Board to nine members. In making such additional appointments, the President shall take into consideration those factors recited in section 22 (a). One of the two additional members shall first be appointed for a term of three years, and the other additional member shall first be appointed for a term of five years. Following the appointment of said two additional members, a quorum of the Board shall thereafter consist of five members for the purposes of section 22(d).

(f) Notwithstanding subsection (b), any member of the Board may at any time be removed from office for cause by the President, or, if cause exists but the President does not act, by the Congress through impeachment proceedings.

Executive Director

SEC. 23. (a) The Deputy Administrator of the Small Business Administration for the Small Business Capital Bank shall serve as the Executive Director of the Bank and shall, subject to the general supervision and direction of the Board as to matters of a broad and general supervisory, advisory or policy nature, and, except as otherwise specifically provided in this Act, be responsible for the execution of the functions of the Board.

(b) The Executive Director shall comply with all orders and directions which he receives from the Board; but as to all third persons his acts shall be presumed to be in compliance with the orders and directions of the Board.

(c) The Executive Director shall employ such personnel (including attorneys, economists, accountants, experts, assistants, clerks, and laborers) as may be necessary to carry out the functions, powers and duties vested in the Board, and fix their compensation, without regard to the civil service laws or the Classification Act of 1949, as amended. All functions, powers, and duties of the Board, except those specifically reserved to the Board itself by this Act, shall be exercised and performed by the Executive Director and may be exercised and performed by him through such employees of the Bank as he may designate.

Regulations

SEC. 24. The Board shall prescribe and publish such regulations, and take such other actions, as may be necessary and appropriate in carrying out this Act and in effectively exercising the functions expressly and impliedly vested in it under this Act.

TITLE III—INCORPORATION AND FUNDING OF SMALL BUSINESS CAPITAL BANK

Incorporation

SEC. 31. (a) The members of the Board of Governors shall, under their hand, forthwith execute and file with the Secretary of the Senate and with the Secretary of the House of Representatives articles of incorporation which shall specifically state the amount of the Bank's authorized capital stock and the number of shares into which such stock is to be divided, and all other matters necessary or appropriate to the organization of the Bank and the accomplishment of the purposes of this Act.

(b) The Board is authorized to direct such changes in or additions to any such articles of incorporation not inconsistent with this

Act, as and when it may deem necessary or expedient.

(c) Upon the Board's duly making and filing the articles of incorporation, the Bank shall become, as of the date of the filing of such articles, a body corporate, and as such, it shall have power—

(1) to adopt and use a corporate seal;

(2) to have succession until it is dissolved by Act of Congress or under the provisions of this Act;

(3) to make contracts;

(4) to sue and be sued, complain, interplead, and defend in any court of law or equity, as fully as a natural person;

(5) to elect, by its Board of Governors, a Chairman, a Vice Chairman and a Secretary;

(6) to prescribe, by its Board of Governor, bylaws not inconsistent with law, regulating the manner in which its stock shall be issued, held and disposed of, its officers elected, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed; and

(7) to exercise, by its Board of Governors or its duly authorized officers or agents, subject to law; all such incidental powers as shall be necessary to carry out its functions under this Act.

Capitalization

SEC. 32. (a) The Bank shall be established with an authorized capital of $150,000,000, of which $50,000,000 shall be paid-in capital subscribed for by the Secretary of the Treasury on behalf of the United States, and the remainder shall be provided through purchases of capital stock of the Bank by small business investment companies pursuant to section 45. For the purpose of funding the paid-in capital subscribed for by the Secretary of the Treasury, the Secretary is hereby authorized on request of the Bank to pay to the Bank from the general funds of the Treasury the sum of $50,000,000.

(b) The capital stock of the Bank shall consist of two classes, common and preferred, the rights and preferences of the separate classes to be as specified in the articles of incorporation of the Bank: *Provided, however,* That the authorized capital to be subscribed through the issuance of common stock shall not exceed $100,000,000 and the authorized capital to be subscribed through the issuance of preferred stock shall not exceed $50,000,000.

(c) The common stock shall be available for purchase only by small business investment companies pursuant to section 45.

(d) The preferred stock shall be issued only to the Secretary of the Treasury in exchange for the contribution to the paid-in capital of the Bank pursuant to section 32 (a), and such preferred stock shall be redeemed and retired by the Bank from earnings available therefor as soon as possible after the Bank has received a minimum of $50,000,000 in exchange for its common stock.

Borrowing power

SEC. 33. (a) In addition to its authorized capital the Bank shall have authority to obtain funds through the sale to the public of its debenture bonds, which shall—

(1) bear interest at such rate, and contain such other terms, as the Board may fix; and

(2) be callable on any interest payment date, upon three months' notice, at par plus accrued interest.

(b) The aggregate amount of obligations which may be outstanding at any one time pursuant to subsection (a) of this section shall not exceed $1,000,000,000. The proceeds of the issues of such obligations shall be used only for the purchase of obligations of small business investment companies as provided in section 43 and section 44.

(c) The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued pursuant to subsection (b) of this section, as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(d) All obligations issued by the Bank shall, to the same extent as securities issued by the United States or its instrumentalities, be deemed to be exempt securities within the meaning of the laws administered by the Securities and Exchange Commission and of section 5136 of the Revised Statutes.

Curtailment of Government obligations

SEC. 34. For the purpose of curtailing Government obligations under the small business investment company program—

(1) Effective on the date of the enactment of this Act, funds authorized under any other law for the revolving fund of the Small Business Administration for purposes of the small business investment company program shall be reduced by $50,000,000; and

(2) Effective five years from the date of the enactment of this Act, Section 303(b) of the Small Business Investment Act of 1958, as amended, is hereby repealed.

TITLE IV—PROVISION OF ASSISTANCE TO SMALL BUSINESS INVESTMENT COMPANIES

Use of Bank's funds

SEC. 41. It shall be the primary function of the Bank to use any funds available to it from its capital account or from any of its other accounts—

(1) to provide capital to small business investment companies as provided in section 43; and

(2) to make loans to small business investment companies as provided in section 44.

Standards of eligibility for assistance

SEC. 42. The Board shall promulgate standards to determine the eligibiility of small business investment companies for the assistance provided by this Act. In promulgating such standards, which may differ according to the type of assistance involved and any other relevant factors, the Board shall give consideration to—

(1) the need to promote the development and growth of small business investment companies so as to enable them to make their maximum contribution to productive investment and employment and to the economic stability and growth of the Nation;

(2) the need to make capital and loan funds for such concerns more readily available in adequate amounts and on reasonable terms;

(3) the need to facilitate maximum participation of private financial institutions and investors in financing small business investment companies and eligible small business concerns; and

(4) the need to supplement the existing facilities of the United States Government and of banks and other private financial institutions through the program of assistance provided under this Act.

Provision of equity capital to small business investment companies

SEC. 43. (a) It shall be a function of the Bank to provide a source of needed equity capital for small business investment companies which meet the standards of eligibility promulgated by the Board under section 42, by advancing funds to such concerns in the manner and subject to such terms and conditions as may be prescribed by the Board.

(b) The Bank is authorized to supply equity capital to any eligible small business investment company through the purchase of either the common stock or the preferred stock issued by such small business investment company.

(c) The aggregate amount of stock of any one small business investment company which may be acquired and held by the Bank at any one time shall not exceed the lesser of five per centum of the paid-in capital of the Bank or twenty-five per centum of the issued and outstanding voting stock of such small business investment company.

Provision of loan funds to small business investment companies

SEC. 44. (a) The Bank is authorized to make loans, in the manner and subject to such terms and conditions as may be prescribed by the Board, to small business investment companies which meet the standards of eligibility promulgated by the Board under section 42, in order to provide such concerns with funds needed for their financing activities.

(b) Loans made under this section may be made directly, or in cooperation with banks or other lending institutions, through agreements to participate on an immediate or deferred basis.

Purchase of bank stock by small business investment companies

SEC. 45. (a) Whenever the Bank advances funds to a small business investment company under section 43 or section 44, such small business investment company shall be required to become a stockholder of the Bank by investing in the common stock of the Bank.

(b) A small business investment company receiving equity capital from the Bank pursuant to section 43 shall be required to become a stockholder of the Bank by investing in the common stock of the Bank five per centum of the amount of the capital so provided by the Bank.

(c) A small business investment company receiving loan funds from the Bank pursuant to section 44 shall be required to become a stockholder of the Bank by investing in the common stock of the Bank an amount equal to one per centum per annum of the amount of the loan funds so provided by the Bank: *Provided, however,* That the maximum funds so invested by the small business investment company shall not exceed five per centum of the loan funds so provided by the Bank.

The section-by-section analysis presented by Mr. SPARKMAN is as follows:

SMALL BUSINESS CAPITAL BANK BILL SECTION-BY-SECTION ANALYSIS

TITLE I—SHORT TITLE, STATEMENT OF PURPOSE AND DEFINITIONS

Section 11 provides that the act may be cited as the "Small Business Capital Bank Act."

Section 12 declares the purpose of the act to be "to improve and stimulate the national economy in general and the small business segment thereof in particular by establishing a Small Business Capital Bank." The Bank is to serve as a secondary source of funds for small business investment companies "in order to enable such companies to

provide to the small business concerns of this Nation the equity capital and long-term loan funds which they need for the sound financing of their business operations and for their growth, expansion, and modernization." The purpose of the act thereby conforms to and supplements the policy of the Congress as enunciated in section 102 of the Small Business Investment Act of 1958, as amended.

Section 13 defines terms used throughout the act and conforms certain common terms to those used in the Small Business Investment Act of 1958, as amended.

TITLE II—ESTABLISHMENT OF SMALL BUSINESS CAPITAL BANK

Section 21 establishes the Bank as a division of the Small Business Administration to be known as the Small Business Capital Bank Division. The Division will be headed by a Deputy Administrator who shall also serve as a member of the Board of Governors of the Bank and as its Executive Director.

Section 22 vests the original management of the bank in a Board of Governors consisting of seven members. Four of these shall be the Secretary of the Treasury, the Administrator of the Small Business Administration, the Deputy Administrator for Investment of the Small Business Administration and the Deputy Administrator for the Small Business Capital Bank of the Small Business Administration. The remaining three members are to be appointed by the President by and with the advice and consent of the Senate. The terms of office of these three members shall be 6 years, except that the initial three appointees shall be appointed for terms of 2 years, 4 years, and 6 years, respectively.

Members of the Board shall be U.S. citizens and, except for the Government representatives who will not be compensated separately for their duties under this act, shall receive $100 per diem for each day or part thereof spent in the performance of official duties. All members of the Board, including the Government representatives, shall be reimbursed for necessary travel, subsistence, and other expenses actually incurred in the discharge of their duties as members of the Board.

The members of the Board shall elect from among their number a Chairman, a Vice Chairman, and a Secretary. These officers shall be elected annually for terms of 1 year. The Board may elect any of its members to act as Chairman pro tempore in the absence or disability of the Chairman or Vice Chairman. The Board shall meet at least six times each year and special meetings of the Board may be held on the call of the Chairman or any three members.

Upon the complete redemption of the Bank's preferred stock, the President shall appoint two additional public members to the Board, thereby raising the membership of the Board to nine: four Federal officials and five public representatives. The two new public members shall be appointed, one to a 3-year term and one to a 5-year term, but their successors shall thereafter serve for terms of 6 years.

Any member of the Board may at any time be removed from office for cause by the President, or, if cause exists but the President does not act, by the Congress through impeachment proceedings.

Section 23 provides that the Deputy Administrator of the Small Business Administration for the Small Business Capital Bank shall serve as the Executive Director of the Bank. Subject to the general supervision and direction of the Board, he shall be responsible for the execution of the functions of the Board.

The Executive Director shall comply with all orders and directions which he receives from the Board, but as to all third persons, his acts shall be presumed to be in compliance with the orders and directions of the Board.

The Executive Director shall employ personnel necessary to carrying out the functions, powers, and duties vested in the Board, and fix their compensation without regard to the civil service laws or the Classification Act of 1949, as amended.

All functions, powers, and duties of the Board, except those specifically reserved to the Board itself by the act, shall be exercised and performed by the Executive Director and may be exercised and performed by him through such employees of the Bank as he may designate.

Section 24 authorizes the Board to prescribe and publish such regulations as may be necessary and appropriate in carrying out the act.

The purpose of this provision is to reserve to the Board maximum flexibility in establishing policies and procedures necessary to the accomplishment of the purposes of the act.

TITLE III—INCORPORATION AND FUNDING OF SMALL BUSINESS CAPITAL BANK

Section 31 provides that the Board will execute and file with the Senate and the House articles of incorporation relative to the organization of the Bank. Upon the filing of the articles of incorporation, the Bank shall become a body corporate with all powers necessary to the implementation of the act.

Section 32 provides for an authorized capital of $150 million, of which $50 million shall be paid-in capital subscribed for by the Secretary of the Treasury in exchange for the preferred stock of the Bank, the remaining $100 million of authorized capital to be provided through the purchase of common stock by small business investment companies pursuant to the provisions of section 45 of the act.

The preferred stock to be subscribed by the Secretary of the Treasury shall be redeemed and retired by the Bank from earnings available therefor as soon as possible after the Bank has received a minimum of $50 million in exchange for its common stock.

Section 33 authorizes the Bank to obtain funds through the sale to the public of its debenture bonds in an amount not exceeding $1 billion.

The debenture bonds of the Bank to be sold to the public will not be obligations of the United States, but the Secertary of the Treasury is authorized to purchase any such obligations up to the amount of $1 billion.

This provision conforms in substance to authority now vested in the Secretary of the Treasury under legislation relating to the Federal National Mortgage Association.

Section 34 provides for a curtailment of Government obligations under the small business investment company program in two ways: (1) by reducing the revolving fund of the Small Business Administration for purposes of the small business investment company program in the amount of $50 million, thus freeing a like amount to be subscribed by the Secretary of the Treasury for the preferred stock of the Bank; and (2) repeal of section 303(b) of the Small Business Investment Act of 1958, as amended, 5 years from the date of the enactment of the Small Business Capital Bank Act. Within such 5-year period, it is anticipated that the Bank will be able to assume in full the present lending functions of the Small Business Administration as now authorized under section 303(b) of the Small Business Investment Act of 1958, as amended.

TITLE IV—PROVISION OF ASSISTANCE TO SMALL BUSINESS INVESTMENT COMPANIES

Section 41 provides that it shall be the primary function of the Bank to provide capital and loan funds to small business investment companies.

Section 42 authorizes the Board to promulgate standards to determine the eligibility of small business investment companies for the assistance provided by the act. Recognizing that the successful operation of the small business investment company program must be geared to considerations other than those governing conventional commercial lending operations, this section expressly provides that in promulgating standards of eligibility, the Board shall take into consideration the need to promote the development and growth of small business investment companies so as to enable them to make their maximum contribution to productive investment and employment, the need to make capital and loan funds for such concerns more readily available in adequate amounts and on reasonable terms, the need to facilitate maximum participation of private financial institutions and investors in financing small business investment companies and eligible small business concerns, and the need to supplement the existing facilities of the Government and of banks and other private financial institutions for the program of assistance provided under the act.

Section 43 authorizes the Bank to supply equity capital to any eligible small business investment company through the purchase of either the common stock or the preferred stock of such a company.

In order to prevent the Bank from becoming a mere holding company and to insure diversification in its investment operations, this section provides that the Bank may not invest more than 5 percent of its own paid-in capital in any one small business investment company, nor may it purchase stock of such a company in an amount exceeding 25 percent of the issued and outstanding voting stock of the small business investment company.

Section 44 authorizes the Bank to make loans to small business investment companies under such terms and conditions as the Board of the Bank may prescribe. Such loans may be made directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or a deferred basis.

The section contains no limitations as to the amount of funds which the Bank may lend to any one small business investment company, this determination being left to the discretion of the Board.

Section 45 requires a small business investment company receiving either capital funds or loan funds from the Bank to become a stockholder of the Bank by investing in its common stock.

Where the Bank provides equity capital to a small business investment company, such company will be required to reinvest 5 percent of the amount of the capital so provided in the common stock of the Bank.

A small business investment company borrowing from the Bank will be required to purchase common stock of the Bank in an amount equal to 1 percent per annum of the amount of the loan funds so provided up to a maximum of 5 percent.

Mr. PROXMIRE. Will the Senator from Alabama yield?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Wisconsin?

Mr. SPARKMAN. Let me state to the distinguished Senator from Wisconsin that I would prefer to yield the floor inasmuch as I have an engagement to which I must go.

I apologize to the Senator for not remaining in the Chamber to listen to his

remarks on this subject, because he is chairman of the Subcommittee on Small Business of the Committee on Banking and Currency, and he does an excellent job in that capacity. I know of his great interest in this proposed legislation.

Mr. PROXMIRE. I thank the Senator from Alabama for his comments. Mr. President, I am delighted to join with the junior Senator from Alabama in cosponsoring this bill which would establish a Small Business Capital Bank.

The Bank which this bill would create would become the primary source of funds for small business investment companies. It is anticipated that ultimately the Bank will contain private funds, thus eliminating most of the need for Federal investments in small business investment companies.

The Small Business Administration would continue to purchase subordinated debentures up to $700,000 on a matching basis from newly licensed SBIC's under section 302(a) of the Small Business Investment Act of 1958. However, the bill provides that 5 years after its enactment section 303(b) of the act would be repealed.

The bill contains provisions which will completely remove any Federal money in the Capital Bank. The authorized capital of the Bank would be $150 million. Of this amount $50 million would be preferred stock and $100 million would be common stock. Under the bill, the Treasury would purchase $50 million of preferred stock of the Bank. Also, the SBA revolving fund for the use of the SBIC program would be reduced by $50 million. The preferred stock of the bank purchased by the Treasury would be retired by the Bank as soon as possible from the earnings of the Bank. The $100 million of common stock would be purchased by SBIC's who either seek long-term loans or equity capital from the Bank.

The SBIC program has matured and is on the threshold of rendering much greater service to small businesses all over the country. I believe that the Capital Bank established by this bill is soundly conceived and will be of enormous benefit to the SBIC program and to the country.

Mr. President, I yield the floor.

INSPECTION OF CERTAIN TOWING VESSELS

Mr. MAGNUSON. Mr. President, by request, I introduce, for appropriate reference, a bill to require the inspection of certain towing vessels. I ask unanimous consent that a letter from the Secretary of the Treasury, requesting the proposed legislation, together with a comparative type showing changes in existing law made by the proposed bill, be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letter and comparative type will be printed in the RECORD.

The bill (S. 1889) to require the inspection of certain towing vessels, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter and comparative type presented by Mr. MAGNUSON are as follows:

THE SECRETARY OF THE TREASURY,
Washington, April 8, 1965.

Hon. HUBERT H. HUMPHREY,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is submitted herewith a draft a proposed bill "to require the inspection of certain towing vessels."

The purpose of the proposed legislation is to bring towing vessels propelled by means other than steam under inspection by the Coast Guard.

Section 4427 of the revised statutes (46 U.S.C. 405) presently requires the inspection of "every tugboat, towing boat, and freight boat." This section is part of an extensive statutory pattern to insure high standards of safety on merchant vessels through regulation and inspection by the Coast Guard. Although phrased in broad terms, section 4427 has been interpreted by the courts as applying only to vessels propelled by steam. As a result, motor propelled towing vessels are not presently subject to inspection unless they are seagoing vessels of over 300 gross tons.

The anomaly whereby steam towing vessels are subject to inspection and motor towing vessels performing practically identical services are not, has long been recognized. This anomaly has become increasingly apparent with the increasing dominance of the diesel towing vessel as compared to the steam towing vessel. At the present time, steam tugs have been almost completely superseded by diesel towboats. Figures show that in 1962 there were 5,016 diesel tugs in operation compared to 84 propelled by steam, while in 1964 there were 5,380 diesel tugs as compared to 50 propelled by steam.

The present interpretation of section 4427 of the revised statutes results in another inconsistency in that barges or self-propelled tank vessels carrying hazardous liquid cargoes on inland waters must be inspected and meet Coast Guard safety standards while motor propelled tugs towing such barges are not required to be inspected. Considering the ever-increasing traffic in dangerous liquid cargoes and the fact that collision is a major source of marine casualties, an obvious potential hazard is involved in permitting such cargoes to be towed by vessels which at present are neither subject to the requirement for safety inspection nor subject to the licensing and certificating of their personnel.

During 1962 the Coast Guard made a comprehensive study of towing vessel operations. The study showed that of 5,100 vessels documented for towing service only 103 were inspected and certificated by the Coast Guard. A subsequent survey in 1964 showed that of 5,430 vessels documented for towing service only 71 were inspected and certificated by the Coast Guard. The remaining vessels, in both instances, were not subject to inspection under existing law.

The data obtained during the 1962 study also showed that while the number of towing vessels increased 20 percent over a 10-year period, the number of casualties increased by 120 percent to an average of 559 casualties per year for the period from 1960 through 1962. During 1962 for example, 530 towing vessels were involved in casualties serious enough to be reported, which is an average of 1 out of every 10 towing vessels in service. Detailed casualty figures for that year reveal that while no lives were lost due to casualties on inspected towing vessels, 15 lives were lost in casualties involving uninspected towing vessels. The figures further reveal that less than 3 percent of the inspected vessels were involved in reportable casualties compared to 10 percent of the uninspected vessels. During fiscal year 1962 estimated monetary damages due to casualties involving towing vessels were over $9 million.

The 1964 survey showed an increase of 330 documented vessels or 6 percent for the 2-year period since 1962. The average number of casualties for those 2 years was 515. During 1963, 525 towing vessels were involved in reportable casualties; while in 1964, 599 vessels were involved in casualties serious enough to be reported. Detailed casualty figures for 1963 showed that, although no lives were lost on inspected towing vessels, 59 persons lost their lives as the result of marine casualties involving uninspected towing vessels. Similar figures for 1964 revealed that 43 lives were lost as the result of casualties involving uninspected towing vessels. Estimated monetary damages due to casualties involving towing vessels were $15,945,000 in 1963 and $12,335,000 in 1964.

Analysis of the casualty figures for towing vessels for the past several years leads to the conclusion that operation of diesel towing vessels involves as great a hazard as operation of those propelled by steam, and that this hazard could be reduced by requiring these vessels to comply with Coast Guard safety standards. In brief, the Department has concluded that motor propelled towing vessels should be brought under the statutory inspection scheme. The proposed bill would, therefore, amend section 4427 of the revised statutes to provide for the inspection of towing vessels regardless of the manner of propulsion.

The Department believes that the smaller towing vessels are not a sufficient safety hazard to warrant the increased administrative difficulties and costs which would result if they were subject to inspection. Therefore, the bill would exclude those towing vessels which are less than 15 gross tons and 26 feet in length. This would eliminate from inspection the smaller vessels which engage in limited operations.

The casualty statistics also show that a large percentage of the casualties which have occurred on uninspected towing vessels are of a type which could be avoided or minimized if well-qualified personnel were aboard. For example, during fiscal year 1962, almost 60 percent of the reported casualties involved collisions while another 12 percent involved groundings of the tug or tow. In 1963, 63 percent of the reported casualties involved collisions while another 15 percent involved groundings of the tug or tow. The 1964 survey showed that 64 percent of the reported casualties involved collisions and 16 percent involved groundings of the tug or tow. To minimize the hazard to life and property from operation of towing vessels by unqualified personnel, the proposed bill would contain authority to prescribe regulations regarding the manning of towing vessels and the licensing and certificating of their personnel.

The Department, of course, realizes that there are large numbers of vessels to which the strict application of the inspection and manning requirements would not be appropriate for one reason or another. In some cases it is not possible or practicable to bring the vessel into the strict compliance; in other cases to do so would result in severe economic hardship or loss of employment. Therefore, the proposed bill would require the Secretary to take into account the various factors which might appropriately require a lessening of the inspection or manning requirements as to certain vessels. It would also give him authority to exempt additional vessels from the inspection requirements if necessary in the public interest. These provisions are intended to provide sufficient flexibility in administration to enable the Secretary to tailor the inspection requirements more closely to the circumstances of

individual vessels. With this authority it should be possible to achieve the maximum safety on towing vessels consistent with the least economic hardship and disruption to the industry. This authority would also permit the gradual application of the requirements to existing vessels to insure an orderly transition period with minimum interference to towing vessel operations.

The proposed legislation would require increased expenditures for inspection and clerical personnel since an additional 4,500 vessels would become subject to inspection. The Department estimates that an increase of 55 officers and 20 civilians would be required. This would result in additional costs of approximately $700,000 per year. The bill would authorize the Secretary to prescribe reasonable fees or charges for any inspection made or certificate, license, or permit issued.

There is attached a memorandum which contains in summary form the results of the study made by the Coast Guard of the operation of towing vessels. There is also enclosed for your convenient reference a comparative type showing the changes in existing law that would be made by the proposed bill.

Identical legislation was submitted to the 88th Congress by this Department. It was introduced as S. 2316 and referred to the Senate Committee on Commerce, but no action was taken prior to adjournment.

It would be appreciated if you would lay the proposed bill before the Senate. A similar proposed bill has been transmitted to the Speaker of the House of Representatives.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

HENRY H. FOWLER.

COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY THE PROPOSED BILL

(Matter proposed to be omitted is enclosed in brackets; new matter in italics)

SECTION 4427 OF THE REVISED STATUTES (46 U.S.C. 405)

[The hull and boiler of every tug-boat, towing-boat, and freight-boat shall be inspected, under the provisions of this title; and the inspectors shall see that the boilers, machinery, and appurtenances of such vessel are not dangerous in form or workmanship, and that the safety-valves, gage-cocks, low-water alarm-indicators, steam-gages, and fusible plugs are all attached in conformity to law; and the officers navigating such vessels shall be licensed in conformity with the provisions of this title, and shall be subject to the same provisions of law as officers navigating passenger-steamers.]

(a) When used in this section—

(1) The term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(2) The term "towing" means pulling, pushing, or hauling alongside, or any combination thereof.

(3) The term "towing vessel" means all tugboats, towboats, towing boats, and other vessels engaged or intended to engage in the service of towing, which are above fifteen gross tons or twenty-six feet or over in length.

(b) All towing vessels regardless of manner of propulsion, and whether documented or not, shall be inspected under the provisions of this title.

(c) The Secretary shall, before a towing vessel is put into service, and at least once every two years thereafter, cause it to be inspected, and shall satisfy himself that it (1) is of a structure suitable for the service in which it is to be employed; (2) is equipped with the proper appliances for lifesaving and fire protection; (3) has suitable accommodations for the crew; and (4) is in a condition to warrant the belief that it may be used, operated, and navigated with safety to life and property in the proposed service.

(d) The Secretary may, in order to secure effective provision against hazard to life and property created by vessels subject to this section, prescribe such regulations as may be necessary with respect to the following matters:

(1) The design, construction, alteration, or repair of towing vessels.

(2) Operation of towing vessels, including the waters in which they may be navigated.

(3) Manning of towing vessels and the duties of the licensed officers and members of the crews of such vessels.

(4) Licensing and certificating of crew of towing vessels.

(e) In prescribing regulations for towing vessels the Secretary shall give consideration to the age, size, service, route, and other factors affecting the operation of the vessel. If the Secretary determines that the application to any towing vessel of the regulations prescribed for towing vessels is not necessary in the public interest, he may exempt that vessel from the application of the regulations, or any part thereof, upon such terms and conditions and for such periods as he may specify.

(f) A certificate of inspection issued to a towing vessel may at any time be voluntarily surrendered.

(g) The Secretary may prescribe reasonable fees or charges for (1) any inspection made and (2) any certificate, license, or permit issued under this section or the regulations prescribed hereunder.

AMENDMENT OF NATURAL GAS ACT TO VEST JURISDICTION IN THE FEDERAL POWER COMMISSION OVER CERTAIN INTERSTATE SALES OF NATURAL GAS

Mr. MAGNUSON. Mr. President, by request, I introduce, for appropriate reference, a bill to amend the Natural Gas Act to vest jurisdiction in the Federal Power Commission over certain interstate sales of natural gas for industrial use, and for other purposes. I ask unanimous consent that a letter from the Chairman of the Federal Power Commission, requesting the proposed legislation, together with a statement of Commissioner O'Connor, relating to the legislation, be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letter and statement will be printed in the RECORD.

The bill (S.1890) to amend the Natural Gas Act to vest jurisdiction in the Federal Power Commission over certain interstate sales of natural gas for industrial use, and for other purposes, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter and statement presented by Mr. MAGNUSON are as follows:

FEDERAL POWER COMMISSION,
Washington, D.C., April 12, 1965.

Re draft bill to amend subsection 1(b) of the Natural Gas Act—Direct sales for industrial use.

Hon. HUBERT H. HUMPHREY,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith for consideration of the appropriate committee are 20 copies of a draft bill to amend the Natural Gas Act to give the Federal Power Commission jurisdiction over direct sales of natural gas in interstate commerce for industrial use and over sales of natural gas in interstate commerce to the United States for any use. The proposal would be accomplished by amending subsections 1(b), 1(c), and 2(6) of the act. Similar bills incorporating this recommendation were introduced in the 88th Congress (S. 1734 and H.R. 7117).

The Commission's current jurisdiction over sales of natural gas is limited to sales in interstate commerce for resale, and does not include a large volume of the total gas sold directly to industrial consumers by pipelines, and to a lesser extent by some of the independent producers. In the Commission's view, placing direct industrial sales by both pipelines and producers under its regulatory jurisdiction would help provide protection to industrial consumers from excessive or discriminatory rates, and would prevent the undesirable inflationary pressures on natural gas prices in the field which could be caused by large industrial customers who can purchase gas directly from the producers on an unregulated basis.

First we should observe that it is unrealistic to expect that this gap in interstate regulation will be closed by State action. Attempts by several State regulatory commissions to assert jurisdiction over direct pipeline sales have not been successful. For example, it has been held by the State courts in Colorado and Illinois that interstate pipelines selling to individual consumers on a contract basis are not public utilities, and in Mississippi that such sales are not interstate. The direct sales by pipelines in these States are therefore beyond the reach of the respective State regulatory statutes. Indeed any State which attempted to determine the proper rate for direct industrial sales from an interstate pipeline which extends across several States would encounter serious difficulty in obtaining enough information about the out-of-State operations of the pipeline to make such a determination. The States, of course, have no difficulty in regulating the sales of gas to industrial consumers by the local gas distributing companies as a part of their general jurisdiction over such companies and we do not suggest that any change in the present situation with respect to such sales is necessary or advisable.

The regulatory gap is a large one. In each of the past few years about 3.5 trillion cubic feet of natural gas have been sold annually by the interstate pipelines destined for ultimate consumption in industry. Out of that volume roughly 2 trillion cubic feet annually have been sold by the interstate pipelines to gas distributing companies and resold by them to industrial users. These transactions have been regulated both by the Federal Power Commission at wholesale and by the State commissions at retail. The remaining 1.5 trillion cubic feet of annual sales of gas have been sold directly by the interstate pipelines to industrial consumers, for all practical purposes completely unregulated. Thus, of the total sales of industrial gas supplied by the interstate pipelines, 40 percent was not regulated. The unregulated volume comprises roughly 20 percent of the total gas supplied by interstate pipelines for all uses, residential, commercial, or industrial.

The lack of jurisdiction over such a large proportion of the interstate gas sales has created several major problems.

First is the problem of excessive rates. In some areas of the country where coal and oil are abundant, competition has kept the price of industrial gas reasonably low. However, in many parts of the Nation other fuels are not readily available at competitive prices and industrial gas prices tend to be high in relation to the cost of service. Competitive energy prices, in fact, are not the sole consideration in any region because natural gas has achieved a preferential position in some industrial applications by virtue of innate

qualities which make it superior to coal or oil for these applications. Thus, regulation is necessary to assure energy for industrial usese at prices which are reasonable related to costs.

Under the circumstances it is to be expected that the pipeline companies would charge high rates for many direct industrial sales. Complete data is lacking, but there have come to the Commission's attention numerous instances where the pipeline revenues from direct industrial sales yield far more than a reasonable return on investment. In one case staff studies indicate the rate was over 50 percent in excess of a reasonable return; in another, stating the differences in terms of price, a company's jurisdictional rate to a local distributor was 23.2 cents per M.c.f. as contrasted with the unregulated rate to industrial customers of 45 cents per M.c.f.; and, in still another case, an industrial rate was raised almost 50 percent in 1 year. These seem not to be isolated instances but rather part of a pattern of charging higher rates for nonjurisdictional than for jurisdictional sales where market factors permit.

A second problem is that of discrimination in rates. In a number of cases the interstate industrial gas rates of a given pipeline appear to vary widely even though the sales are within a single State or community. For example, in one community, a box company, a chemical company, a steel company, and a glass company, each paid the same pipeline a different rate ranging from 24.1 cents per M.c.f. to 41.2 cents per M.c.f., though there were only minor differences in service conditions. Discrimination in rates has extended to agencies of the Federal Government which purchase from the pipelines, and the Defense Department has cited at least one instance where among its own installations in the same locality widely different rates were charged by the pipeline, without any difference in cost to justify the disparity.

The third problem relates to the potential effect on gas prices generally of unregulated direct industrial sales by producers. The Commission has responsibility for assuring that wellhead prices for interstate sales of gas for resale are just and reasonable. For this purpose the Commission has been proceeding with the establishment of just and reasonable rates, and as an interim measure has established guideline ceiling prices for certificating new sales by the producers to the pipelines in interstate commerce. However, the present gap in Commission jurisdiction over direct industrial sales enables producers to make direct sales at prices above the guideline ceilings to large industrial consumers who are able to obtain pipeline transportation for the gas and who are willing to pay higher prices in order to control their own gas supply. Any such above-ceiling sales inevitably exert an inflationary pressure on jurisdictional sales and tend to divert large volumes away from jurisdictional markets. Thus, the unregulated direct industrial sales by producers could lead to higher prices and shorter supplies of gas for the consumers served by the jurisdictional pipeline systems and their distributors.

Lastly, the proposed amendment would greatly simplify ratemaking procedures. The present partial authority of the Commission over pipeline sales creates considerable complexity in the process for determining just and reasonable rates, because in fixing the costs attributable to a pipeline's jurisdictional sales, it is now necessary to undertake complex calculations for allocating the cost of service between the jurisdictional and nonjurisdictional services of the pipeline. A large share of the disputes centering about the allocations of various elements of cost could be eliminated or at least minimized if the Commission had jurisdiction over direct industrial sales in interstate commerce.

We urge adoption of the proposed amendment for the protection of industrial consumers, for the prevention of inflationary pressures on field prices generally as well as to simplify the ratemaking processes of the Commission.

Commissioner O'Connor has asked me to note his opposition to the proposal. A separate statement of his views is attached.

Respectfully,

JOSEPH C. SWIDLER,
Chairman.

SEPARATE STATEMENT OF COMMISSIONER O'CONNOR ON DRAFT BILL TO AMEND SUBSECTION 1(b) OF THE NATURAL GAS ACT—DIRECT SALES FOR INDUSTRIAL USE

Delicate issues emerge in appraising legislation designed to recast the orthodox context within which large and numerous industries have traditionally functioned. Fundamental issues emerge in appraising legislation which would interject permanent government control where none previously existed. Where both issues are raised simultaneously, the legislative proposal, to be supportable, must decisively establish that the traditional context had been effecting, and would continue to effect, a substantial adverse impact on the general public. Absent this showing, government's keystone tenet of securing maximum unfettered economic interplay compels its rejection. These considerations have imposed a heavy burden of justification upon the bill to amend sections 1(b), 1(c), and 2(6) of the Natural Gas Act which, once again, has not been met. The bill must again be rejected.

The bill's expressed thrust is to direct the Federal Government to dictate the price, the volumes and the periods of delivery for interstate natural gas sold to industrial customers. Its immediate result is to extinguish all bargaining flexibility now existing between buyer and seller; to posit the logical premise for future legislative requests for, or agency assertions of, the power to order compulsory interconnections with nondistributor applicants; and, to legitimize complete Federal end-use control of a multiuse commodity. Its near-immediate result will be to eliminate substantially natural gas from the industrial fuels market. The former result flows from the bill's specific language and the proclivities of most Federal regulators; the latter flows from the combined interaction of the expensive, time-consuming irritation characterizing Federal regulation, and its entrenched philosophy of compelling service on a cost—without recognition of value—basis. The former result is regrettable, but often justifiable; the latter result removes the justification.

To appreciate this, one can refer to the Federal Power Commission's steam-electric utility statistics for the 1954–1963 decade. By the beginning of this decade, gas had acquired an intrinsic market value. Consequently, there existed utility fuels competition either among or between gas, residual oil, or coal in 45 States of the continental Union. Rising to meet the evolving gas threat, the coal industry initiated extensive cost adjustments which decreased the utility per ton coal price 4.6 and 4.8 percent, respectively, on a national and coal-competitive area basis. The coal price reduction forced a 2.3-percent reduction in the price of residuals, and limited the gas price increase to 1.5 percent annually, which was remarkable considering its transition in marketability.

The introduction of gas into the utility fuels market, therefore, resulted in a 1963 consumer saving of $62 million in utility coal costs and a $6,500,000 paring of utility residual costs.

Simultaneous with the price reductions, the coal industry entered into a stage of technological innovation in mining techniques, long-distance transmission facilities and mine-mouth generating plants. These were long-due advances, but not until the presence of competitive gas were they initiated. Unfortunately, the enactment of the proposed legislation will substantially eliminate this presence, and will effect a grievious impact upon the American consumer that far surpasses any abuses now flowing from free negotiation.

It is said, however, that enactment would aid us in preventing inflationary pressures on uncommitted gas reserves. As a majority of the Commission unmistakably indicated in the recent Transcontinental Gas Pipe Line Corp., docket No. CP63–222 opinion, they already believe that power exists under the present section 7. It is also argued that enactment would eliminate excessive rates—that is, exceeding the approximately 6½ percent normally allowed—and discriminatory rates which may exist to some unknown extent. In appraising this, one must remember that over 50 percent of the total industrial gas consumption occurs in the States of Texas, Louisiana, and Kansas. These are exporting States, and thus a great portion of their consumption never enters an interstate line; it is supplied by intrastate lines or direct producer sales. Recent Federal Power Commission statistics for interstate natural gas pipeline companies and Bureau of Mines minerals yearbooks and an appraisal of the petroleum industry of the United States in 1965, reveal that interstate mainline sales volumes represent slightly under 16 percent of the total industrial gas consumption; slightly under 25 percent of the industrial gas consumption, excluding field, transmission and refinery fuel use; and slightly under 7 percent of the total United States industrial energy consumption. What this means is that a great portion of industrial gas will never be regulated by this bill.

Much industrial gas is, of course, sold outside the producing States, but here it must contend with coal and residuals. Illustratively, gas sales to steam-electric utilities constitute one-third of gas' total industrial sales. Success here is crucial; but, because of coal competition, gas supplies less than 12 percent of the total utility British thermal units in the coal competitive areas. Competition in this region will become more strenuous for, as revealed in the National Coal Association's "Steam Electric Plant Factors, 1963," electric utility coal British thermal units are now 5 percent cheaper than gas British thermal units. Also revealed is that by 1962, electric utility gas costs either leveled or declined in every coal-competitive region, and, by 1963, on a nationwide basis.

The Bureau of the Census divides the gas importing States' industrial market into 20 categories, excluding electric utilities and nonmanufacturing usage. Commission staff exhibits in the southern Louisiana area rate proceeding, AR61–2, treat 12 of these categories, and 4 other subcategories, as completely fuel flexible—that is, able to substitute fuels within 12 to 18 months. This constitutes 63 percent of the industrial market for 45 importing States. The Bureau of Mines minerals yearbook for 1963 reveals that these markets, wherein over 50 percent of the industrial gas sales are effected, experienced a 1.6-percent gas price decrease—from 40.9 cents to 40.25 cents—for the 1962–63 period. This decrease had been visible for some time. Thus, while the national industrial gas price increased 23 percent from 1954 to 1960, it increased but .8 cents, or 2.5 percent, from 1960 to 1963. Considering the stable, slightly downward trend in coal and residual fuel oil costs, there is every indication that the gas price leveling, or decline, will continue.

Several industrial markets, principally foods, primary metals, and glass are truly fuel inflexible. They are, however, also large

markets which enable the buyer, particularly if another segment of his corporate structure engages in a fuel-flexible enterprise, to bargain from strength.

The progress experienced by the coal industry has infused a new competitive factor into the industrial fuels market which promises a continued leveling, and a possible decline, in industrial gas prices. Although Federal control would grant still lower prices for some manufacturers and processors, the issue now becomes: Is the National Government to interlope in every sales effected by gas pipelines, or does its legitimate function end where substantial buyers in considered classes possess sufficient economic leverage? Phrased differently, is universal gas sales control justified to protect the few when its absence has benefited the many? The answer is to be found in the 1965 economic report of the President: "Ceaseless change is the hallmark of a progressive and dynamic economy. No planned economy can have the flexibility and adaptability that flow from the voluntary response of workers, consumers, and managements to the shifting financial incentives provided by free enterprise."

The bill, including that portion which would give preferential regulatory treatment to purchasing agencies of the U.S. Government, must be rejected.

LAWRENCE J. O'CONNOR, Jr.,
Commissioner.

PROPOSAL TO GIVE STATES A GREATER VOICE IN WELFARE PLANNING

Mr. JAVITS. Mr. President, on behalf of myself, the Senator from Vermont [Mr. PROUTY], and the Senator from California [Mr. MURPHY], I introduce, for appropriate reference, a bill to create a permanent Federal Public Assistance Advisory Council to give State and local governments an effective voice in the formulation and administration of Federal public assistance programs.

The proposed Council would be composed of 12 members, appointed by the Secretary of Health, Education, and Welfare from among State and local public assistance directors and "other individuals who are outstanding in public welfare administration." The term would be 4 years, and the Council would be required to report to Congress annually. The formation of such a council was recommended in a report last year by the Advisory Commission on Intergovernmental Relations.

A permanent Public Assistance Advisory Council would give State and local governments a formally, legally constituted forum for presenting their thoughts and recommendations regarding public assistance programs to the Federal agency in an effective, orderly, and uniform manner. The temporary advisory councils which have existed in the past have not adequately considered the problems of State and local governments in the public assistance programs.

If Federal-State public assistance programs are to achieve maximum effectiveness, we should endeavor to maximize the areas of cooperation between Federal, State, and local officials in the planning and administration of the programs involved. If we mean what we say with respect to strengthening the role of Federal legislation as an instrument in strengthening welfare programs at the State and local level, then we must enhance the role of State and local officials at the Federal agency level. The rapid expansion of Federal public assistance programs in recent years emphasizes this need. Federal public assistance officials should not be considered as "them" nor should Federal-State-local public assistance programs become "their programs." The need for a permanent Public Assistance Advisory Council is clear.

There is ample precedent for the Advisory Council which would be created by the proposed bill. It is patterned after the Federal Hospital Council which was established by law for consultation and advice in connection with the administration of the Hospital Construction Act.

The Advisory Council on Intergovernmental Relations, which was established during the Eisenhower administration, is still actively functioning. Last year, in its report, "Statutory and Administrative Controls Associated With Federal Grants for Public Assistance," the Commission recommended the establishment of a permanent Public Assistance Advisory Council to enable State and local officials to have an effective voice in formulating Federal legislative proposals and in preparing Federal agency administrative requirements in the public assistance field. This recommendation also has the support of State public welfare officers.

Mr. President, I hope very much that the committee to which this proposed legislation may possibly be referred, the Committee on Labor and Public Welfare, will move promptly to deal with the subject.

I ask unanimous consent to have printed in the RECORD an excerpt from the report of the Advisory Commission on Intergovernmental Relations making the recommendations.

The PRESIDING OFFICER. The bill will be received and appropriately referred, and, without objection, the excerpt will be printed in the RECORD.

The bill (S. 1891) to provide for the establishment of a permanent Federal Public Assistance Advisory Council, introduced by Mr. JAVITS (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The excerpt presented by Mr. JAVITS is as follows:

C. ESTABLISHMENT OF A PERMANENT PUBLIC ASSISTANCE ADVISORY COUNCIL

The need for State and local officials to have more voice in the formulation of Federal legislative proposals and in the preparation of administrative requirements issued by the Federal agency dictates that serious consideration should be given to the establishment of a device such as a permanent public assistance advisory council. In the past, advisory groups have been established from time to time by the Congress to study the public assistance programs and to make recommendations for improvement. Traditionally these have been appointed on a temporary basis and charged with responsibility for studying the programs and issuing a report of their findings. They were dissolved upon the issuance of the report. The Social Security Act amendments of 1962 provided for the appointment by the Secretary of an advisory council to review the administration of the public assistance and child welfare programs. This council is to be appointed in 1964 and is required to make a report of findings and recommendations by July 1, 1966. It will then cease to exist, although the act also directs the Secretary to appoint advisory councils from time to time thereafter as he deems necessary.

While past advisory groups undoubtedly have been helpful, they do not appear to have provided an adequate sounding board for State and local ideas regarding public assistance. The Commissioner of Welfare, as have predecessors who have been delegated responsibility for the public assistance programs, consults from time to time on public assistance matters with the Executive Committee of State Directors of the American Public Welfare Association. Nevertheless, it does not appear that these relatively informal advisory arrangements are as effective as a permanent and more formally constituted body would be in giving State and local government a voice in the formulation of legislative proposals and administrative regulations.

The Federal Hospital Council, which is provided by law in connection with administration of the Hospital Construction Act and is appointed by the Secretary of Health, Education, and Welfare, might be a satisfactory model as well as a precedent for the establishment of a permanent Public Assistance Advisory Council. The Federal Hospital Council is composed of 12 members who are appointed for 4-year overlapping terms. The Surgeon General of the Public Health Service serves as Chairman ex officio of the Council which is designed to advise him on the administration of the program. It is provided by law that the Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon the request of three or more members of the Council, the Surgeon General is required to convene the Council. A permanent Public Assistance Advisory Council to be truly effective should be required by law to report annually to the Congress on its deliberations and operations.

Important arguments supporting the establishment of such a council for public assistance are: (1) It would give States and local governments a formal, legally-constituted forum for presenting to the Federal agency their ideas and grievances regarding the public assistance programs; (2) it would permit these governments to present their recommendations and any disagreements with the Federal agency to the Congress in an effective, orderly, and uniform manner rather than on a "hit or miss" basis as they must do at present; and (3) advisory councils in the traditional pattern have not adequately considered the problems of State and local governments in the public assistance programs.

Important arguments against the establishment of a permanent Public Assistance Advisory Council are: (1) There really is no need for such a council with the existing provision in the law directing the Secretary to establish an advisory council from time to time; (2) representative views of the States are adequately presented to the Federal agency by those State directors whom the Welfare Commissioner consults frequently; and (3) a permanent council would require staff time and assistance of personnel in the Department of Health, Education, and Welfare, which would interfere with regular program activities.

REPEAL OF EXCISE TAX ON TELEPHONE AND OTHER COMMUNICATION SERVICES

Mr. FONG. Mr. President, I introduce, for appropriate reference, a bill providing for the gradual reduction and eventual elimination of the 10-percent Federal excise tax on general—local—

and toll—long distance—telephone service and on other communications such as telegraph, teletypewriter exchange, wire mileage, and wire and equipment.

This would be accomplished by a 2-percent reduction each year until the tax is repealed 4 years from now.

Beginning July 1 this year, the tax would go down to 8 percent; July 1, 1966, down to 6 percent; July 1, 1967, to 4 percent; July 1, 1968, to 2 percent; and starting July 1, 1969, there would be no tax levied on these services.

In the case of wire and equipment, the tax is now 8 percent, so it would be eliminated entirely beginning July 1, 1968.

What I propose is a two-pronged means of aiding low- and middle-income people. First, of course, is the direct reduction of the tax on local and long distance telephone service and cables.

Today more than 80 percent of all households in America have a telephone. I understand that about 50 percent of households with less than $3,000 annual income, the poverty level according to this administration, have telephone service.

The Bureau of Census has reported—1960—that 86 percent of households with telephones had annual incomes of less than $10,000; 53 percent had incomes of less than $6,000; and 20 percent had incomes of less than $3,000.

Reduction and repeal of this 10-percent Federal excise tax would be of immediate benefit to these people, the ones who need it most.

Second, reduction and elimination of this tax would reduce costs for businesses. Nearly one-half of the revenue derived from this tax comes from business users. Tax savings could be passed on to consumers in the form of lower prices for products and services. Again, this would be of greatest benefit to those in the low- and middle-income groups.

As Hawaii is an island State, we are particularly dependent upon long-distance telephone service, wire service, cables, and telegrams. These are major communication links with families, friends, and businesses on the various islands of our State and in our sister States on the mainland.

Therefore, my bill proposes gradual elimination and repeal of the 10-percent Federal excise tax on these services as well as on local telephone service.

In fiscal year 1964, Federal excise taxes on communications collected in Hawaii were $2,052,000 for general—local—telephone service; $719,000 for toll telephones, telegraph, cable, and radio; and $27,000 for wire mileage equipment—a total of $2,798,000.

Repeal of this Federal excise tax would mean savings of almost $3 million every year to Hawaii taxpayers. This would substantially increase the purchasing power of island residents to the benefit of Hawaii's economy.

Nationwide, for fiscal year 1965, collections from the tax on communication services are estimated to be $1 billion to $1,040, million.

Under the bill I propose, the Federal Government would lose 2 percent of this revenue in fiscal year 1966 and by increments of 2 percent for the next 3 fiscal years until July 1, 1969, when the tax would be entirely eliminated. As I have explained in the case of wire and equipment, elimination would be accomplished in mid-1968.

The Federal loss is the consumers' gain. Each year under my bill, consumers would have an additional $200 million to spend. By the time this excise tax is completely eliminated, this would mean more than a billion dollars every year to stimulate the Nation's economy.

The original reasons for levying this tax in World War II no longer apply. Today, national policy is not to discourage use of telephone and telegraph services but to encourage them. Today, the telephone is not a luxury, but a necessity in homes as well as business.

It is time Congress repealed this unfair and discriminatory tax. My bill will do this with a minimum disruption to our Federal fiscal picture.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 1892) to provide for the gradual reduction and eventual elimination of the tax on communication services over a 4-year period, introduced by Mr. FONG, was received, read twice by its title, and referred to the Committee on Finance.

MEANS OF REDRESS FOR UNLAWFUL SEIZURE OF AMERICAN PROPERTY BY FOREIGN GOVERNMENTS

Mr. ERVIN. Mr. President, I introduce for appropriate reference, a bill to amend title 28, United States Code, to provide means of redress for the unlawful seizure of American property by foreign governments. I ask unanimous consent that the text of the bill be printed in the RECORD following these remarks.

I introduced substantially this same bill in the 87th and 88th Congresses. However, at that time, the question of whether a private law remedy exists for the expropriation of the property of U.S. citizens was still pending in the courts, and for that reason, I did not press for action. That litigation is now complete with last spring's Supreme Court decision in Banco Nacional against Sabbatino.

The Court in an excellent opinion by Justice Harlan, writing for a majority which exercised rare and commendable self-restraint in these days of judicial innovation, held that, absent a Federal law or treaty, the judiciary will not examine the taking of property within its own territory by a foreign government "even if the complaint alleges that the taking violates customary international law."

The Court noted that its reaffirmation of the "act of state" doctrine, according to which the courts of one country will not sit in judgment on the acts of the government of another done within its own borders, is merely a principle of decision. Justice Harlan carefully noted that this doctrine is not required by either international law or the Constitution. Indeed, the case was decided in the face of clear international law to the contrary, and, it can be argued, principles of the Constitution to the contrary. As Justice White pointed out in his dissent:

> Article III, section 2 of the Constitution states that "the judicial power shall extend to all cases * * * affecting Ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; * * * to controversies * * * between a state, or the citizens thereof, and foreign states, citizens or subjects."

The majority, nevertheless, felt it was not for the judiciary to fill the jurisdictional vacuum left by the executive and legislative branches, and no legal remedy has been spelled out by Congress. The Court cited among the reasons for its holding that only the political branches of government properly should address themselves to solving problems which may affect the conduct of foreign policy.

Congress has in the past expressed itself on the foreign policy question involved. Its determination in this matter is expressed in the Hickenlooper amendment to halt expropriations of the property abroad of U.S. citizens by foreign governments receiving our foreign aid.

See the remarks of Senators SALTONSTALL, MORSE, HICKENLOOPER, LAUSCHE, and ALLOTT, CONGRESSIONAL RECORD, volume 108, part 16, pages 21615–21621. But it is not enough to deny grace of foreign aid to prevent or deter such illegal activities. It seems to me that, apart from inducements of aid which may be only temporarily available, our local Federal law relating to private transactions can be strengthened to protect our citizens' interest in their property abroad. This more permanent protection of U.S. private law I am convinced could be used much more effectively than is possible today without force and without drawing down the energy of the State Department. Therefore, I am introducing herewith for discussion a bill representing one step in the process of improving our private law on this vital subject.

It is not my feeling that this proposed legislation in its present form is the final best answer, but expert testimony at early hearings should provide us with the answer. Of course, the protection of U.S. citizens abroad and the property of those citizens abroad remains the primary responsibility of the executive branch. However, Congress must not shirk its own responsibility in the matter. More than once sugar belonging to one of our nationals has been found within the territorial jurisdiction of the United States in the hands of the foreign government which seized it. It is indeed to our shame that presently the courts of the United States are powerless on the basis of our present U.S. law even to entertain an action to restore the property to its U.S. lawful owner. This intolerable jurisdictional impasse has been thought to be required by the doctrines of sovereign immunity and the acts of state. But these doctrines, originally designed to prevent friction between nations, under present conditions invite unlawful seizure and cause strained relations.

If a seizure of property of a U.S. citizen has been made in violation of international law or of a treaty to which we are signatory, no reason of logic, fairness, or international law or morality ought to prevent U.S. courts, having the property within the U.S. jurisdiction, from having jurisdiction to restore the property to its rightful owner, or compensating him for its seizure.

Legislation pursuant to the bill I am introducing would offend no recognized principles of international law. For it has always been conceded that States may take retaliatory measures to defend themselves against violations of international law. Surely, a state may provide means for restoring to its citizen-owners property within its own jurisdiction which has been illegally taken by another state, in violation of its express obligations and agreements.

Modern enlightened authority, including our own American Law Institute, favors the view that when it is alleged and proved that property was taken in violation of international law our courts should take jurisdiction, adjudicate the merits and decree the delivery of such property. Our Federal courts have frequently indicated an invitation to Congress to direct their action in such matters.

It may be urged—cf. American Law Institute Foreign Relations Restatement S. 44—that the courts should act only if the State Department interposes no objection. But the observations of Senators HICKENLOOPER, MORSE, LAUSCHE, and SALTONSTALL in the debate on the foreign aid appropriation bill above referred to clearly indicate that under present conditions of cold war turmoil it may be of little help to our courts to require or suggest that they look to the overworked State Department for diplomatic assistance in which is essentially, for a nation which lives by law, a legal problem. Let us have what affirmative assistance the State Department under international law, can give our expropriated citizens. But let us also by the law of our own own local courts give those citizens a maximum chance to protect themselves in their own country through our own law and our own lawyers.

The PRESIDING OFFICER. The bill will be received and appropriately referrred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 1894) to amend title 28, United States Code, to provide means of redress for the unlawful seizure of American property by foreign governments, introduced by Mr. ERVIN, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 1894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1332, title 28, United States Code, is amended by—

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

(2) inserting therein, immediately after subsection (b) thereof, the following new subsection:

"(c) If the matter in controversy in any such action involves, or arises out of, an act of a foreign state in violation of general principles of international law, or of a treaty to which the United States and the foreign state are signatories, it shall be no bar to the maintenance of the action that it is brought against a sovereign state, without its consent, or that it involves the validity of official acts of such state."

(b) Section 1655, title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"In any such action by an American citizen or corporation, involving or arising out of an act of a foreign sovereign in violation of the general principles of international law, or of a treaty to which the United States and such foreign sovereign are signatories, it shall be no bar to the maintenance of the action that it is brought against a foreign state, without its consent, or that it involves the validity of official acts of such state."

Sec. 2. (a) Title 28, United States Code, is amended by inserting therein, immediately after section 1655 thereof, the following new section:

"§ 1655A. Lien enforcement; property of foreign states

"It shall be no objection to the issuance of mesne or final process with respect to property, as provided by rule 64 of the Rules of Civil Procedure promulgated under this title, that the property is owned by a foreign state, if it is used in or acquired from commercial activities by such foreign state, or has been acquired by it as a result of acts against an American citizen or corporation in violation of general principles of international law or of a treaty to which the United States and the foreign sovereign are signatories."

(b) The analysis of chapter 111, title 28, United States Code, is amended by adding thereto, immediately after the item relating to section 1655 thereof, the following new item:

"1655A. Lien enforcement; property of foreign states."

BROADENING FARMERS HOME ADMINISTRATION EMERGENCY LOANS

Mr. HARTKE. Mr. President, under the Consolidated Farmers Home Administration Act, subchapter I provides for real estate loans. These may be made, among other things, for improving farms and for refinancing existing indebtedness. These are 5-percent loans. Subchapter II provides for operating loans to farmers and ranchers. These may be, among other things, for purchase of livestock, farm equipment, feed, and seed. They are also 5-percent loans. In addition, FHA administers section 502 of the Housing Act of 1949, under which a farmer may be able to finance his home on a 4-percent basis. Or, under section 307 of the Consolidated Farmers Home Administration Act, it may be possible for the farmer to secure a loan on other property, again at 5 percent.

At the same time, Mr. President, under the emergency loans subchapter, on designation of the Secretary that the need for credit is the result of natural disaster, loans not in excess of 3 percent per annum may be made for any of the purposes authorized for loans under the previous two subchapters. It would seem that the intent is to provide disaster loans through FHA in these various categories at a uniform 3 percent.

However, this is not the interpretation apparently placed on the statutes by the Secretary. Last Sunday, at a meeting in Russiaville, Ind., which was all but totally destroyed by the Palm Sunday tornadoes, I listened to a representative of the Farmers Home Administration as he attempted to explain the 5-, 4-, and 3-percent loans which are available. It was an exercise in confusion.

Mr. President, a natural disaster is a natural disaster to all of a farmer's affected property, whether his loss is in buildings, livestock, tractors, or washed-out planted fields whose seed and fertilizer have gone down the river. I see no reason why one class of loan under emergency conditions should bear a 3-percent rate, a second 4 percent, and a third 5 percent. It is for that reason, in order to clarify the procedures and make the rate uniform, that I am introducing my bill today for amendment of the act. I ask that the text of this proposed amendment of the Consolidated Farmers Home Administration Act may appear at the close of these remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 1895) to amend the Consolidated Farmers Home Administration Act of 1961 so as to increase the purposes for which emergency loans may be made under subtitle III of such act, introduced by Mr. HARTKE, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 322 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. § 1962) is amended by adding at the end thereof a new sentence as follows: "Loans may also be made under this subtitle for (1) the replacing of farm animals which have been lost, and the replacing of farm materials and equipment which have been lost, damaged, or destroyed, as the result of a natural disaster, (2) repairing, replacing, or reconstructing the farm dwelling house and any farm buildings damaged or destroyed as the result of a natural disaster, but no loan may be made under this subtitle to replace or reconstruct a farm dwelling house or any farm building with a structure larger than the one being replaced or reconstructed."

AMENDMENT TO EXPORT CONTROL ACT

Mr. HARTKE. Mr. President, I offer today a bill to amend the Export Control Act of 1949. The Committee on Banking and Currency presently has before it S. 1332, the administration bill introduced by Senator ROBERTSON to extend the act, which otherwise would expire on June 30, 1965, for an indefinite period. I trust that the committee may consider this bill in connection with its hearings on S. 1332. I believe that, particularly in the light of events surrounding application of the act

in the case of walnut log exports, the amendment which I propose would clarify it and make more certain its judicious use for the benefit of the American economy.

In presenting my bill, I wish to outline the circumstances which have made its adoption desirable and needed. I want to call it to the particular attention of my colleagues on the Commerce Committee, in the hope that in the light of facts brought out in our recent hearings on walnut log exports, they will join me in pressing for its adoption.

Many Members of Congress are by now well aware of the circumstances surrounding the most recent application of the Export Control Act, that govern walnut logs, bolts, and hewn timber. Secretary Hodges, after about 2½ years of study, issued an export control order for a 1-year period beginning February 14, 1964, as part of a program to protect the diminishing supply of domestic veneer quality black walnut. This action was in conformity with the provision of the act, which states:

The Congress declares that it is the policy of the United States to use export controls to the extent necessary (a) to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand; (b) to further the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (c) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security.

Secretary Hodges was clearly acting in accord with the act, since—as the hearings of March 16 and March 31, under my chairmanship, clearly brought out—there was indeed an "excessive drain of scarce materials" and an "inflationary impact of abnormal foreign demand." The act does not say the Secretary of Commerce "is authorized" to impose short supply controls in such a situation. Rather, it says that "the Congress declares that it is the policy of the United States to use export controls" under the circumstances given.

Secretary Hodges imposed the export controls for a 1-year period, and tied with it a condition that domestic use also be reduced. By reducing, in a voluntary action, the veneer thickness produced, the domestic users did make significant reductions. Nevertheless, on February 13 of this year Secretary Connor declined to renew the controls under the act. The reasons which he gave included the alleged need for compliance with a specific target of domestic conservation and alleged requirements of GATT. The Department release on the matter refers to walnut as a "nonstrategic item." However, a February 26 letter addressed by Secretary Connor to me on the subject says:

Our export control laws are today maintained primarily to regulate trade in strategic materials.

I believe that such interpretations are not the intent of Congress. In 1962, when a bill was passed continuing the Export Control Act, the Senate Committee on Banking and Currency in its report on the bill said:

The act is not limited to strategic materials or to critical material or to essential commodities. It will support a total embargo or the mildest of restrictions. The requirements of foreign policy, national security, and domestic shortages are the only test.

The amendment which I am offering makes even more clear the intent of Congress within the act itself, even though its language at present should be adequate. It makes clearer that short supply controls are to be imposed when the conditions set out in the act are met, without consideration of extraneous conditions not set forth there. It broadens the language, to cover not only "short supply" or danger of "extinction," to specify materials which are "in danger of becoming in short supply." It further specifies that the conditions of the act are met whenever exports on an annual basis are at least five times greater than they were in 1955, and when a substantial number of other nations impose controls or embargoes of the same materials or commodities.

Despite the Secretary's references to controls on walnut logs as possibly infringing on our GATT arrangements, a study of GATT's own procedures shows that there is room for our own export control actions of this sort within its framework. Twenty-three other nations have controls on export of native hardwoods, even complete embargoes, and remain within the GATT rules. The provisions I have noted—exports five times greater than in 1955, controls by other nations—fit with the other needed clarifications which will apply not alone to the walnut log situation, but to others which may arise in the future.

I ask unanimous consent, Mr. President, that the text of the short subsection which I propose as an addition may be printed following these remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 1896) to amend section 3 of the Export Control Act of 1949, introduced by Mr. HARTKE, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Export Control Act of 1949, as amended (50 App. U.S.C. 2023), is amended by adding at the end thereof a new subsection as follows:

"(d) The authority conferred by this section shall be exercised with respect to any materials or commodities which are in short supply or in danger of becoming in short supply (1) in all cases where it is determined by the President that there is excessive drain and inflationary impact due, to a substantial degree, to abnormal foreign demand, (2) without consideration of other policies or standards not set forth in this Act, and (3) without regard to whether such materials or commodities are essential or critical or have significance to the national security. In addition, the standards set forth in this Act shall in any case be deemed to be met and the authority conferred by this section shall be exercised whenever (i) exports of such materials or commodities by volume, as shown by the latest Government figures or reasonable estimates, are at least five times greater on an annual basis than they were in 1955, and (ii) a substantial number of other nations impose controls or embargoes on exports, either in processed or unprocessed form, of such materials or commodities, or of materials or commodities reasonably comparable thereto."

AUTHORIZATION FOR THE PRESIDENT TO APPOINT GEN. WILLIAM F. McKEE, U.S. AIR FORCE (RETIRED), TO THE OFFICE OF ADMINISTRATOR OF THE FEDERAL AVIATION AGENCY

Mr. MAGNUSON. Mr. President, I introduce, for appropriate referral, a bill requested by the President in connection with his announced appointment of Gen. William F. McKee to be Administrator of the Federal Aviation Agency.

The Federal Aviation Act in section 301(b) requires that the Administrator, at the time of his nomination, "shall be a civilian." A letter from the President, which I will insert in the RECORD after these remarks, indicates, however, that it is desired that General McKee should retain his retired status from the Air Force at the same time that he serves as Administrator.

The requested legislation, then, would make it possible for General McKee to achieve both the position at FAA and his retired status. This is a matter that the committee will want to look into with care in the process of considering the nominee. It is the Commerce Committee that has jurisdiction over the FAA and established the original policy of requiring a civilian Adminstrator.

I ask unanmous consent that the following be included in the RECORD: the letter from the President requesting the legislation, the body of the bill, and a copy of the act passed on the occasion of Gen. George C. Marshall's appointment to be Secretary of Defense.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letter, bill, and act will be printed in the RECORD.

The bill (S. 1900) to authorize the President to appoint Gen. William F. McKee, U.S. Air Force (retired), to the office of Administrator of the Federal Aviation Agency, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter, bill, and act presented by Mr. MAGNUSON, are as follows:

THE WHITE HOUSE,
Washington, April 29, 1965.

Hon. WARREN G. MAGNUSON,
Chairman, Commerce Committee,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Upon learning of FAA Administrator Halaby's intention to resign, I have felt it very important to find a successor who not only knows the aeronautical industry and has the full confidence of its

leaders, but one who also knows the problems of all who fly and how to work effectively toward their solution. This is especially essential in view of the great need to press forward in all areas of aviation, and particularly in implementing the decisions we will need to make on the development of the supersonic transport. I know you and the other members of the Commerce Committee appreciate the need for a thoroughly experienced executive with the ability to carry out the Agency's responsibilities. I believe it is important, too, that whoever occupies the position be qualified to serve as a member of the top team of my administration.

In Gen. W. F. McKee, we have all of these qualities and, in addition, the important experience he has had during the past year in examining, analyzing, and evaluating the program of the National Aeronautics and Space Administration in advanced science and technology. His assignment was to examine all facets of NASA's operation, including particularly those in aeronautical research and development, as to their adequacy and value. This experience, coupled with that acquired over the years in every facet of the operations of the Air Force, makes him particularly well qualified.

General McKee's appointment as FAA Administrator, does, however, present a situation requiring congressional assistance. The general's retired status and the policy developed at the time of the establishment of the Agency that the Administrator should be a civilian would impose upon him the burden of requiring him to make an unreasonable financial sacrifice and subject his family to the risk that they would be denied, in the event of his death, the benefits of his present retired status which they rely upon for their security.

The questions posed by former military officers serving in civilian capacities were thoroughly reviewed by the Congress last year in its consideration of amendments to the dual compensation statutes. General McKee has indicated his intention and willingness to abide by the provisions of that act, but as I indicated to you in our discussion of the other day, legislation similar to that enacted by Congress to authorize Gen. George Marshall to serve as Secretary of Defense is required to permit General McKee to serve as FAA Administrator and retain his retired status. Enclosed is the language used in the case of General Marshall and a proposed amendment to the FAA statute permitting the appointment of General McKee under the same conditions and restrictions.

I regard this as a matter that is both important and urgent, and hope it can be considered and acted upon promptly.

Sincerely,

LYNDON B. JOHNSON.

S. 1900

A bill to authorize the President to appoint General William F. McKee (United States Air Force, retired) to the office of Administrator of the Federal Aviation Agency

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 301(b) of the Federal Aviation Act of 1958 (72 Stat. 744; 49 U.S.C. 1341(b)), or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint General William F. McKee (United States Air Force, retired), to the office of Administrator of the Federal Aviation Agency. General McKee's appointment to, acceptance of, and service in, that office shall in no way affect any status, rank, or grade he may occupy or hold in the United States Air Force or any component thereof, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade: *Provided,* That so long as he holds the office of Administrator of the Federal Aviation Agency, he shall receive the compensation of that office at the rate specified in the Federal Executive Salary Act of 1964 (title III of the Act of August 14, 1964, Public Law 88-426), as it may be amended, and shall retain the rank and grade which he now holds as an officer on the retired list of the Regular Air Force, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of the Dual Compensation Act (the Act of August 19, 1964, Public Law 88-448), as it may be amended.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Agency, General McKee shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the Regular Air Force.

SEC. 3. It is hereby expressed as the intent of the Congress that the authority granted by this Act is not to be construed as approval by the Congress of continuing appointments of military men to the office of Administrator of the Federal Aviation Agency in the future.

An act to authorize the President to appoint General of the Army George C. Marshall to the office of Secretary of Defense

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 1222 of the Revised Statutes (U.S.C., title 10, sec. 576), or the proviso contained in section 202 (a) of the National Security Act of 1947, as amended, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint General of the Army George C. Marshall to the office of Secretary of Defense and General Marshall's appointment to, acceptance of, and service in that office shall in no way affect any status, office, rank, or grade he may occupy or hold in the Army of the United States or any component thereof, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade: *Provided,* That so long as he holds the office of Secretary of Defense, General Marshall shall retain the rank and grade of General of the Army which he now holds in the Army of the United States and he shall continue to receive the pay and allowances (including personal money allowance) to which he is entitled by law, and in the event the salary prescribed by law for the office of Secretary of Defense exceeds such pay and allowances, General Marshall shall be authorized to receive the difference between such pay and allowances and such salary.

SEC. 2. In the performance of his duties as Secretary of Defense, General Marshall shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer of the Army.

SEC. 3. It is hereby expressed as the intent of the Congress that the authority granted by this Act is not to be construed as approval by the Congress of continuing appointments of military men to the office of Secretary of Defense in the future. It is hereby expressed as the sense of the Congress that after General Marshall leaves the office of Secretary of Defense, no additional appointments of military men to that office shall be approved.

Approved September 18, 1950.

APPROPRIATIONS FOR PROCUREMENT OF SMALL PATROL CUTTERS FOR THE COAST GUARD

Mr. MAGNUSON. Mr. President, by request of the Secretary of the Treasury, I introduce, for appropriate reference, a bill to authorize appropriations for procurement of small patrol cutters for the Coast Guard.

I ask that there be printed at this point in the RECORD a memorandum submitted to me by the Secretary of the Treasury in reference to this proposal.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the memorandum will be printed in the RECORD.

The bill (S. 1901) to authorize appropriations for procurement of small patrol cutters for the Coast Guard, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The memorandum presented by Mr. MAGNUSON is as follows:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Fiscal year 1966.

Project title: "Construct 17 replacement small patrol boats."

Congressional district: ———.

Budget item No. —.

Mission or function of facility: To perform missions of search and rescue, and law enforcement.

Facility personnel allowance

Type:	*Planned*
Officers	0
Warrant	0
Enlisted	136
Civilian	0
Total	136

Description of project: Construct 17 steel-hulled small patrol boats. These vessels to have a length of 83 feet 10 inches overall, diesel propulsion, maximum speed of 22 knots, cruising range at economical speed of over 800 miles, and all necessary electronics equipment for navigation and communications.

Reason for request and relation to long-range plans of Coast Guard: These patrol boats are required to replace 17 similar boats deployed to Vietnam. To accomplish this deployment boats were taken from the following locations: Woods Hole, Mass.; Fire Island, N.Y.; Sandy Hook, N.J.; Cape May, N.J.; Norfolk, Va. (2); Fort Pierce, Fla.; Grand Isle, La.; Galveston, Tex.; Port Isabel, Tex.; Long Beach, Calif.; San Pedro, Calif.; Newport Beach, Calif.; Benicia, Calif.; San Francisco, Calif.; Everett, Wash.; Bellingham, Wash. This has resulted in a definite reduction of the Coast Guard search and rescue capability in these locations. With these replacements, the long-range plan for this type vessel operating off U.S. shores will be fulfilled.

Cost estimate of work

Project element:	
Hull	$4,505,000
Machinery	1,054,000
Electronics	425,000
Outfits	276,000
Total cost of project	6,260,000

APPOINTMENT OF ADDITIONAL CIRCUIT AND DISTRICT JUDGES—AMENDMENTS

(AMENDMENT NO. 142)

Mr. LONG of Missouri (for himself and Mr. SYMINGTON) submitted amendments, intended to be proposed by them, jointly, to the bill (S. 1666) to provide for the appointment of additional circuit

and district judges, and for other purposes, which were referred to the Committee on the Judiciary, and ordered to be printed.

SENATOR RANDOLPH PROPOSES INCREASED PUBLIC WORKS FUNDS IN S. 1648 NOW PENDING—AMENDMENT (AMENDMENT NO. 143)

Mr. RANDOLPH. Mr. President, I introduce, for appropriate reference, an amendment to S. 1648, the Public Works and Economic Development Act of 1965. I ask that it remain on the desk until the conclusion of Senate business on May 11 to give other Senators an opportunity to cosponsor the measure.

At the time this body was acting on the Appalachian Regional Development Act the administration and the Senate leadership pledged to many Senators that other regions in economic distress would receive prompt attention from the 89th Congress. S. 1648 redeems that pledge, Mr. President, and the committees are working with dispatch to bring the legislation to the floor. The Public Works Committee has completed its hearings. It is my understanding that our committee hopes to go into executive session on the bill next week. The Banking and Currency Committee is currently holding hearings on those sections of the bill within its jurisdiction. We may reasonably hope for equally prompt action by that committee.

My amendment would increase the authorization for public works matching funds from $250 million annually to $500 million. This is a realistic and, indeed, necessary amendment if the Federal Government is to meet its responsibility in assisting the many communities of our country to meet the pressing backlog of needs in public facilities.

The PRESIDING OFFICER. The amendment will be received, printed, and appropriately referred; and, without objection, the amendment will lie on the desk, as requested by the Senator from West Virginia.

The amendment (No. 143) was referred to the Committee on Public Works.

VOTING RIGHTS ACT OF 1965—AMENDMENTS (AMENDMENTS NOS. 144 THROUGH 154)

Mr. ERVIN submitted 11 amendments, intended to be proposed by him, to the Mansfield-Dirksen amendment (No. 124), in the nature of a substitute, to Senate bill 1564, to enforce the 15th amendment to the Constitution of the United States, which were ordered to lie on the table and to be printed.

NOTICE OF RECEIPT OF NOMINATION BY COMMITTEE ON FOREIGN RELATIONS

Mr. SPARKMAN. Mr. President, on behalf of the Committee on Foreign Relations, I desire to announce that yesterday the Senate received the nomination of Warren W. Wiggins, of Colorado, to be Deputy Director of the Peace Corps.

In accordance with the committee rule, this pending nomination may not be considered prior to the expiration of 6 days of its receipt in the Senate.

NOTICE CONCERNING NOMINATIONS BEFORE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Newell A. George, of Kansas, to be U.S. attorney, district of Kansas, for a term of 4 years. Now serving under an appointment which expired March 28, 1965.

Covell H. Meek, of Iowa, to be U.S. marshal, northern district of Iowa, for a term of 4 years. Now serving under an appointment which expired April 13, 1965.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, May 11, 1965, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

MONTANA EDITOR WINS PULITZER PRIZE

Mr. MANSFIELD. Mr. President, I was delighted and pleased to learn this morning that one of Montana's weekly newspaper editors and publishers is to receive the 1965 Pulitzer Prize for achievement in news in the arts. Mel Ruder of the Hungry Horse News at Columbia Falls, Mont., receives the award for general local reporting. The award is being given for his coverage of the disastrous June 1964 flood which threatened his community and others along the Flathead.

Mel Ruder is an old friend, and one of the most able weekly newspaper editors in the Nation. He has been honored on a number of occasions for his achievements in reporting and photography. Mel is a small community's weekly editor in every sense. He publishes a handsome newspaper which is primarily concerned with local news, but has one of the largest weekly circulations in the State. The Hungry Horse News is an achievement in makeup and typography, due in large part to Mel Ruder's talents as a photographer. Mel is a civic leader and perhaps one of the best known personalities in western Montana. As editor of the Hungry Horse News he is content to live and work in a small but growing community near the western entrance to Glacier National Park.

An excerpt from today's New York Times story on the Pulitzer Prize awards gives some measure of the man:

Mr. Ruder was in a barnyard yesterday when some one shouted to him that he had won a Pulitzer Prize. He had been taking some children on a conservation tour.

"I lost money on the flood edition," he said in a telephone interview. "We just forgot all about advertising."

My colleague, Senator LEE METCALF, and I wish to extend to Mel Ruder our sincere and personal congratulations. We also wish to congratulate the other winners of the Pulitzer Prize, among which is one from the great State of Vermont for their notable achievements in journalism and the arts.

Mr. President, I ask unanimous consent to have printed at the conclusion of my remarks in the CONGRESSIONAL RECORD sundry news stories.

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

[From the New York Herald Tribune, May 4, 1965]

HUNGRY HORSE EDITOR WINS PULITZER PRIZE

(By Martin G. Berck)

Journalism's most coveted award, a Pulitzer Prize, went yesterday to a reporter on the Hungry Horse News, a newspaper that appears each Friday in Columbia Falls, Mont. (population 2,132).

For his "daring and resourceful coverage * * * in the finest tradition of spot news reporting" when a disastrous flood threatened his area last June, Melvin H. Ruder won a Pulitzer Prize in the journalism category of general local reporting. Mr. Ruder, 50, was not only the reporter, but also the editor and photographer on the story. He is also the paper's publisher.

Another Pulitzer, for meritorious public service in bucking strong opposition to help bring about legislative reapportionment, went to the Hutchinson News of Hutchinson, Kans. (population 33,575).

Seven awards in journalism and six in categories of letters were made public yesterday in a list of prizes issued annually for 49 years. The prizes are awarded by the trustees of Columbia University and are administered by its Graduate School of Journalism. The awards are made on the recommendations of the advisory board on the Pulitzer Prizes, which met April 22 on the Columbia campus.

For the second straight year, no Pulitzer Prize was given for music. It is understood that the jury in music—there are jurors appointed in each category to advise the advisory board—recommended that no award be made. Once before last year, in 1953, there was no prize for music, which first was included as a category in 1943.

No award was given in another field, cartoons, for the third time since this category was started in 1922.

These are the awards:

LETTERS

Drama given for the first time in 3 years—Frank D. Gilroy, 38, for his first offering on Broadway, "The Subject Was Roses." A three-character play about a middle-class Bronx family, it won a Drama Critics Circle Award last week. Mr. Gilroy, who has written extensively for television, had to stuggle to have the play produced and then to keep it on a Broadway stage.

Fiction: Shirley Ann Grau, 35, for her third novel, "The Keepers of the House," which deals with the shocked response of a bigoted Southern community when it learns that one of its leading families is of "mixed blood." Miss Grau, native of a small Louisiana town, published her first book of short stories when she was 25. She lives with her husband and two small children in Metairie, La., a suburb of New Orleans.

Like drama and music, fiction also was omitted from the awards list last year.

History: Irwin Unger, 38, for "The Greenback Era," which is subtitled "A Social and Political History of American Finance, 1865–1879." It won critical praise for original research into the post-Civil War period. A

Brooklyn-born graduate of James Madison High School and City College, Dr. Unger is a faculty member of the University of California at Davis, Calif.

Biography: Prof. Ernest Samuels, 61, of Northwestern University, for his three-volume "Henry Adams," which took more than 20 years to complete. For "Henry Adams, the Middle Years," he won both the Bancroft Prize and the Parkman Prize in 1959. Professor Samuels lives in Evanston, Ill.

Poetry: John Berryman, 50, for his book, "77 Dream Songs." An Oklahoma-born teacher and poet, Mr. Berryman has served on the faculties of Wayne State University, in Detroit, and at Harvard, Princeton, and the Universities of Washington and Cincinnati. He lives with his wife and three children in Minneapolis.

General nonfiction: Dr. Howard Mumford Jones, 73, for his book, "O Strange New World," which is subtitled, American Culture: The Formative Years." Dr. Jones, who is Lowell Professor of the Humanities, Emeritus, at Harvard, deals with the conflicting ideas, emotions, and images of early America. A former dean of Harvard's Graduate School of Arts and Sciences, he has published many books, including plays, poems, biographies, and studies. He lives in Cambridge, Mass.

JOURNALISM

National reporting: Louis M. Kohlmeier, 39, a Washington correspondent for the Wall Street Journal, for his articles on the growth of the fortune of President Johnson and his family. The articles were followed, last August 19, by the President's own disclosure of a detailed audit of his finances. Mr. Kohlmeier joined the Wall Street Journal's St. Louis bureau in 1952, switched to its Chicago office and then shifted to the St. Louis Globe-Democrat before returning to the Journal in Washington in 1960. He lives in Sumner, Md.

International reporting: J. A. Livingston, 60, financial editor of the Philadelphia Bulletin, for his articles on the economic defection of Russia's Eastern European satellites. A native of New York City and a newspaperman for 40 years, he as worked for the New Daily Investment News, Financial World, Business Week, the Philadelphia Record, and the Washington Post. He joined the Bulletin in 1948 and lives in Philadelphia.

Local reporting, special: Gene Goltz, 35, of the Houston Post for an exposé of government corruption in Pasadena, Tex., that resulted in widespread reforms. Born in Iowa, Mr. Goltz spent 3 years in the Air Force as a musician and later studied at the University of Kansas and Missouri. At 27, he took his first newspaper job as a reporter for the weekly Tama (Iowa) News-Herald. Later he worked on other Iowa and Arizona papers, joining the Houston Post in 1962. He lives in La Marque, Tex.

Editorial writing: John R. Harrison, 31, publisher of the Gainesville (Fla.) Sun, for his successful campaign to improve housing conditions in his community of 30,000. His editorials are credited with bringing about municipal approval for a minimum housing code. An Iowa-born graduate of Harvard in 1955, Mr. Harrison became publisher in 1962, when his newspaper was purchased by Cowles Magazines & Broadcasting, Inc., which his father-in-law, Gardner Cowles, heads. Previously, he worked for the Fort Pierce (Fla.) News Tribune. He lives with his wife and four children in Gainesville.

Photographs: Horst Faas, 32, Associated Press photographer, for combat pictures from South Vietnam. For almost 3 years he has flown regularly on helicopter missions and made his way to isolated outposts to photograph the war. Often the AP made use as well of his reporting under fire. Berlin-born, he joined the AP in Bonn in 1956 and shifted to the Congo in 1960. A year later, he went to South Vietnam. It was the AP's 20th award.

Each journalism prize carries an award of $1,000, except for the one for public service, for which a gold medal is given. The letter prizes carry awards of $500. Except for the drama category, this year's awards—chosen by the 14-member advisory board—are for work completed or published in 1964.

The Hungry Horse News, with an average circulation of 4,271, is neither the smallest newspaper nor the only weekly to have received a Pulitzer Prize. In 1952, two dailies, the Whiteville News Reporter and the Tabor City Tribune, both of North Carolina, shared a prize for meritorious public service for exposés on the Ku Klux Klan.

But the Montana paper may be the only weekly to come out on a daily basis. When a flood crisis developed in the Flathead Valley area, Mr. Ruder, using rented planes and boats, did his news gathering, writing, picture taking, developing, editing, and publishing in a continuous stream, and put out two additional papers that week in June. He also serviced the AP and local radio stations with bulletins.

[From the Washington Post, May 4, 1965]

FIRST DRAMA AWARD IN 3 YEARS—13 PULITZER PRIZES GIVEN IN NEWS, ARTS

NEW YORK, May 3.—The Philadelphia Bulletin and the Wall Street Journal were awarded Pulitzer Prizes for international and national reporting today. It was the second Pulitzer award in 2 years for both newspapers.

The two prizes were among seven awards in journalism and six in letters announced by President Grayson Kirk of Columbia University. They were selected by the university trustees on recommendation of an advisory board. The prizes are named for the late Joseph W. Pulitzer, founder of the St. Louis Post-Dispatch.

The Hutchinson (Kans.) News was awarded the gold medal Pulitzer for meritorious public service in recognition of its fight against the enemies of legislative reapportionment.

Other journalism awards went to the Houston Post, the Gainesville (Fla.) Daily Sun, the Associated Press, and the Hungry Horse News, a weekly in Columbia Falls, Mont.

In the arts categories, playwright Frank D. Gilroy won the Pulitzer Prize in drama for his play, "The Subject Was Roses." It was the first drama award given since 1962.

Shirley Ann Grau's novel, "The Keepers of the House," received the fiction award, and the history prize went to Irwin Unger for "The Greenback Era." The poetry prize was given to John Berryman for "77 Dream Songs," and Ernest Samuels received the biography award for his three-volume study, "Henry Adams."

The general nonfiction award went to Howard Mumford Jones for "O Strange New World."

J. A. Livingston, financial editor of the Philadelphia Bulletin, won the international reporting award for his reports on the growing economic independence among the Soviet Union's Eastern European satellites and his analysis of their desire for a resumption of trade with Western nations. The series of articles was carried in the Washington Post.

The national reporting award went to Louis M. Kohlmeier of the Wall Street Journal "for his enterprise in reporting the growth of the fortune of President Lyndon B. Johnson and his family." Kohlmeier visited more than a dozen Texas cities to get his story.

Horst Faas of the Associated Press was awarded the prize for news photography for his combat photography in South Vietnam during 1964.

The Hutchinson News won its general gold medal award for disinterested and meritorious public service for its fight against the foes of legislative reapportionment in Kansas and attempts to force redistricting in that State.

Gene Goltz of the Houston Post won the special local reporting award for "his exposé of government corruption in Pasadena, Tex., which resulted in widespread reforms."

John R. Harrison of the Gainesville (Fla.) Daily Sun won the distinguished editorial award for his successful campaign to improve housing conditions in his community.

The award for general local reporting went to Melvin H. Ruder of the Hungry Horse News, for his coverage of a flood that threatened his community.

There was no award for a distinguished example of a cartoonist's work and, for the second straight year, no prize in the music category.

Each journalism prize, except the gold medal for public service, carried an award of $1,000. The letters awards carry $500 grants.

[From the New York Times, May 4, 1965]

"SUBJECT WAS ROSES" WINS PULITZER PRIZE FOR DRAMA

(By Philip Benjamin)

Fiction and drama came back into their own in the awarding of the 1965 Pulitzer Prizes yesterday. Shirley Ann Grau's novel, "The Keepers of the House," was awarded the fiction prize, and Frank D. Gilroy's "The Subject Was Roses" received the award for drama.

But for the second straight year music was ignored. Last year, fiction, drama, and music all were shut out—the first time since the inception of the prizes in 1917 that no awards were given in the three art categories.

Of the eight categories of journalism, only editorial cartoons received no award yesterday.

J. A. Livingston, financial editor of the Philadelphia Bulletin, won the prize for international reporting for his articles on the growth of economic independence in Soviet bloc satellite countries and for his analysis of their desire to resume trade with the West.

Louis M. Kohlmeier, of the Washington bureau of the Wall Street Journal, won the prize for national reporting for his articles on the growth of the fortune of President Johnson and his family.

Horst Faas, of the Associated Press, won the photography prize for his pictures of the war in South Vietnam.

It was the second year in a row that the Wall Street Journal and the Philadelphia Bulletin have won Pulitzer Prizes. Last year the Journal won the local general reporting award and the Bulletin won the local special reporting award. The Associated Press won an international reporting prize last year.

Melvin H. Ruder, publisher, editor, and reporter of the Hungry Horse News at Columbia Falls, Mont., received the award for local general reporting. He was cited for his coverage of the disastrous floods that hit northwestern Montana last year.

The Hungry Horse News is a weekly with an average circulation of 4,271. Mr. Ruder, who is 50 years old, founded it in 1946 on a GI loan. The paper was first put out on August 8, 1946, in a two-story log cabin. It is now housed in a new building and has a staff of two printers, an apprentice, three part-time office workers, and Mr. and Mrs. Ruder.

Mr. Ruder was in a barnyard yesterday when someone shouted to him that he had won a Pulitzer Prize. He had been taking some children on a conservation tour.

"I lost money on the flood edition," he said in a telephone interview. "We just forgot all about advertising."

The paper has only one linotype machine, Mr. Ruder said. "I work like hell," he went on. "I worked until 1 o'clock this morning and then got up at 7."

He said he would stay in Columbia Falls. "It's a beautiful area," he said. "I'm sitting right here at my desk and I look out the window and I see the mountains. And if I got up on top there'd be some elk and deer."

Gene Goltz of the Houston Post won the award for local special reporting with his exposé of government corruption in Pasadena, Tex. The exposé resulted in reforms.

The gold medal for public service was given to the Hutchinson (Kans.) News. This was for its successful effort to bring about reapportionment in Kansas, in the face of powerful local opposition. The newspaper won a suit in the State courts that forced the Kansas Senate to be apportioned on a population basis.

OPPOSITION CONSIDERED

The Pulitzer Prize Advisory Board recognized that other papers have been active in the reapportionment field, but gave the prize to the Hutchinson News because of its early efforts in the field and because of the strong opposition it faced.

John R. Harrison of the Gainesville (Fla.) Sun won the prize for editorial writing. He conducted a successful campaign to improve housing conditions in his community, and helped bring about municipal approval for a minimum housing code.

With the exception of the gold medal award for public service, each journalism prize carries a $1,000 award.

In the field of letters, the prize for history went to Irwin Unger for "The Greenback Era," a study of the United States in the post-Civil War period.

"HENRY ADAMS" HAILED

Ernest Samuels won the prize in biography for his three-volume work, "Henry Adams." The second volume, "Henry Adams—The Middle Years," had previously won the Bancroft Prize and the Parkman Prize in 1959.

John Berryman won the poetry prize with his volume of verse, "77 Dream Songs," and Howard Mumford Jones received the award for a general nonfiction book not eligible for consideration in any other category. The book was "O Strange New World," which portrayed America in its formative years.

The prizes in letters and music carry $500 awards.

An official of the advisory board said yesterday that no musical composition had been recommended by the board, which submits its recommendations for Pulitzer Prizes to the board of trustees of Columbia University. The university's Graduate School of Journalism administers the prizes.

More than 600 nominations in the field of journalism alone were received this year. The nominations are generally made by the newspapers themselves.

Juries in each of the prize categories can make two to five recommendations, which then go to the advisory board, which accepts or rejects the recommendations. The board of trustees has the final word.

In 1962 in what was believed to be the first such instance, the board of trustees rejected the advisory board's recommendation of a prize for a biography of William Randolph Hearst by W. A. Swanberg.

The prizes were established by the will of Joseph Pulitzer, publisher of the St. Louis Post-Dispatch and of the old New York World. Mr. Pulitzer—whose competitor was Mr. Hearst—gave $550,000 to endow the prizes when he died in 1911. The first awards were made in 1917.

[From the New York Times, May 4, 1965]

BIOGRAPHICAL SKETCHES OF THOSE AWARDED 1965 PULITZER PRIZES

J. A. LIVINGSTON

International reporting

Took a 10-week trip behind the Iron Curtain last summer and came out with the story of the economic defection of Russia's Eastern European satellites. Series described by Walter W. Heller, former Chairman of President's Council of Economic Advisors, as politico-economic journalism at its best.

Initials stand for Joseph Arnold. Born in New York in 1905, graduated from University of Michigan in 1925. Newsman ever since, with tours of duty at New York Daily Investment News, Financial World, Business Week, wartime agencies, the Philadelphia Record, the Washington Post. Joined Philadelphia Bulletin in 1948.

LOUIS M. KOHLMEIER

National reporting

The story that won the prize, about President Johnson's personal fortune, took 3 months of research in Washington, New York, and Texas. It ran 6,600 words. He was born in 1926 in St. Louis, graduated from University of Missouri. Started newspaper career at St. Louis and Chicago offices of the Wall Street Journal. Then spent 3 years at the St. Louis Globe-Democrat. Back to the Journal, the daily newspaper of the financial world, in 1960. Mr. Kohlmeier works now in the Washington bureau. Married, father of 2 children. Lives with his family at Bethesda, Md.

GENE GOLTZ

Special and general

Born in 1930 in Marquette, Iowa. Worked on Iowa and Arizona newspapers before joining staff of the Houston Post in 1962. Became an investigative reporter. Won the prize for his exposé of government corruption in Pasadena, Tex., a city of 73,000 persons southeast of Houston. Lives in La Marque, Tex. A district attorney wrote about the exposé: "The courageous efforts of the Houston Post in ferreting out and making public the malfeasance in the municipal government of Pasadena are deserving of the thanks of this entire community and of all persons in favor of honesty in public affairs."

MELVIN H. RUDER

Local reporting

Fifty-year-old publisher, editor, reporter, and photographer for the Hungry Horse News, normally published each Friday for 4,642 readers in Columbia Falls, Mont. (population: 2,132). Disastrous flood last June found Mr. Ruder renting airplanes, driving an automobile on railroad tracks (the roads were washed out) to get his story. Says, "If you don't believe in this kind of thing you just don't belong in this business." Was a major source of news on the flood. Native of Manning, N. Dak., studied journalism and sociology. Started the Hungry Horse News on a GI loan and "a camera, a portable typewriter, a $2.50 desk and my Navy savings."

JOHN R. HARRISON

Editorial writing

Born in Des Moines, Iowa, in 1933, and went to Philips Exeter, Harvard College, and then Harvard Business School. Has been publisher of the Gainesville (Fla.) Sun (circulation: 16,304) since 1962, when it was purchased by Cowles Magazines and Broadcasting, Inc. The editorials that won the prize were part of 1-month campaign to obtain municipal action on minimum housing code for the city with a population of 36,000. The city's leaders had been seeking the reform for 10 years. Former staffer and then president of the Fort Pierce (Fla.) News Tribune. Married, father of four children, lives in Gainesville.

HORST FAAS

News photography

West German citizen, born in Berlin in 1933. Joined staff of the Associated Press in 1956, and has lived with war since then. Took pictures in cold-war Berlin, then hot-war Congo. Rebel troops forced him to eat his United Nations pass in 1961. In 1962, went to South Vietnam. Flies on helicopter missions in pursuit of guerrillas, has been trapped during Vietcong attacks. Provides his employers, and its news clients around the world, with pictures of spot action in the Vietnam war, portraits of the people caught in the war. Courts death in the tradition of fine combat photographers.

DR. HOWARD MUMFORD JONES

General nonfiction

Born on April 16, 1892, in Saginaw, Mich. Lifetime career in teaching and in writing plays, poems, biographies, and studies of culture and intellectual freedom. Graduated from University of Wisconsin, master of arts from the University of Chicago, doctor of letters from Harvard. He has degrees from the Universities of Texas, North Carolina, Michigan and Harvard, where he is now the Lowell Professor of the Humanities, emeritus. Believes way to understanding America is through examination of English and general European history and life.

DR. IRWIN UNGER

History

Born in Brooklyn on May 2, 1927. Is an associate professor at the University of California at Davis, Calif. Attended elementary school and James Madison High School in Brooklyn. Graduated from City College with honors in 1948. Master of arts degree in history from Columbia University. Was a corporal in the Army Quartermaster Corps. After returning to New York, he taught at several schools while working for a doctor of philosophy degree, which he received from Columbia in 1958. Since 1959, he has been teaching in California.

DR. ERNEST SAMUELS

Biography

Is a professor and chairman of the English department at Northwestern University. Born in Chicago on May 19, 1903. Has four degrees from the University of Chicago—bachelor of philosophy, doctor of jurisprudence, master of arts, doctor of philosophy. Was a Guggenheim Fellow and a Fulbright lecturer. Has received two earlier awards—the Bancroft Prize and Parkman Prize—for the second volume of his trilogy. Has worked on his Adams biography for more than 20 years, brought out the first volume, "The Young Henry Adams" in 1948. Lives in Evanston, Ill.

JOHN BERRYMAN

Verse

Combines writing poetry and literary criticism with teaching career. Born October 25, 1914, in McAlester, Okla. Bachelor of arts degree from Columbia College in 1936. Attended Clare College, Cambridge University. Has been Rockefeller Fellow, a Hodder Fellow, and a Guggenheim Fellow. Taught at Wayne State University, Detroit, Harvard, Princeton, the University of Washington, and the University of Cincinnati. Published first book of poems, "The Dispossessed," in 1948. Biography, "Stephen Crane," published in 1950. Is married and has three children and lives in Minneapolis.

SHIRLEY ANN GRAU

Fiction

Now 35 years old, began literary career 10 years ago with a collection of short stories called "The Black Prince," followed by first novel, "The Hard Blue Sky," which critics found to be not quite a novel but good reading. Next, "The House on Coliseum Street," considered a novel, but not so good, and, last year, "The Keepers of the House," acclaimed as a really good novel. Likes to wear large earrings. First job taking care of her husband, Prof. James Feibleman of Tulane University, and her two small children. Lives in Metairie, La., a suburb of New Orleans.

FRANK D. GILROY

Drama

Tall, handsome and softspoken. Made his theater debut in 1962 when his drama "Who'll Save the Plowboy?" was presented off Broadway. "The Subject Was Roses" is his first Broadway play, was turned down by five producers. Borrowed $10,000 to keep it running. Thirty-nine years old. He is married and lives with his wife and three sons in Monroe, N.Y. Born and educated in the Bronx; graduated from DeWitt Clinton High School. Served in the Army for 2½ years. Attended Dartmouth and studied at the Yale Drama School. Has written for Hollywood and for television.

[From the New York Times, May 4, 1965]

THE PULITZER PRIZES

The Pulitzer Prizes awarded yesterday emphasize once again the role that small as well as large newspapers can play in American society—a role sometimes obscured in the daily tumble of yesterday's baseball scores and tomorrow's styles.

The awards to the Hutchinson (Kans.) News for its 4-year campaign for legislative apportionment, to John R. Harrison of the Gainesville (Fla.) Sun for his editorials to improve housing conditions in his community, and to Gene Goltz of the Houston Post for exposing governmental corruption in the Texas town of Pasadena will be applauded by every citizen who has felt alone and helpless in the face of civil powers greater than himself.

Melvin H. Ruder, who is virtually the entire staff of the Hungry Horse News, of Columbia Falls, Mont., personally covered the dangerous and disastrous flood that hit his area. In doing so, he showed that the intrepid spirit of the reporter can reveal itself at home as well as in more exotic places. The prizes to J. A. Livingston of the Philadelphia Bulletin and to Louis M. Kohlmeier of the Wall Street Journal for detective work in the field of economics reveals the increasing significance of a serious but less spectacular side of American reporting. Horst Faas' photographs of the Vietnam war and its suffering is in the realistic tradition of American war photography.

In the field of letters, there is likely to be an unaccustomed unanimity of opinion on Ernest Samuels' great three-volume biography, "Henry Adams," a work 15 years in the making, and on Howard Mumford Jones' "O Strange New World" for general nonfiction. The latter is a gracefully written and learned investigation of the interplay of the influences of the Old World and the New. The volume on history, Irwin Unger's "The Greenback Era," follows the pattern set last year with Sumner Powell's "Puritan Village," both books being highly scholarly though not of wide appeal.

Shirley Ann Grau's novel, "The Keepers of the House," is another installment in the probing of southern attitude and mores. Frank D. Gilroy's "The Subject Was Roses" will be relished by all those who enjoy a naturalistic, warm, and quick-moving domestic drama. Only John Berryman's book of poetry, "77 Dream Songs," reveals any interest by the Pulitzer people in more experimental writing; and it is a well-merited choice.

TRIBUTE TO CHARLES S. MURPHY, FORMER UNDER SECRETARY OF AGRICULTURE, AND NOW MEMBER OF THE CIVIL AERONAUTICS BOARD

Mr. ERVIN. Mr. President, the quiet man in American agriculture is moving on to another Federal post.

Charles S. Murphy, Under Secretary of Agriculture the past 4 years, leaves the tensions and conflicts of agriculture to become Chairman, after confirmation by the Senate, of the Civil Aeronautics Board.

I have known Under Secretary Murphy for many years. Many of my colleagues here today recall the fine services he performed when he served as assistant legislative counsel to the Senate some 25 years ago. In this capacity, as Special Assistant to President Harry S. Truman, and as agricultural Under Secretary, he has earned respect and admiration.

During these past 4 years, deemed by many to be seized with the most political give and take on the farm scene since the days of the New Deal, Under Secretary Murphy was the man who tended the store.

Under Secretary Murphy functioned as the valued administrator who recognized the stark fact that behind every success there is a mountain of tedious, difficult staff work. At this, he has no peer.

On a daily basis, and putting in 14-hour days, he oversaw the operations of 16 huge and powerful agencies, resolved administrative differences, kept a steady hand on legislation and, as President of the Commodity Credit Corporation, bossed one of the largest corporate institutions in the world.

To the case-hardened cadre of career personnel in the Department, many who have served agriculture since the days of the triple-A, Under Secretary Murphy's penetrating questions and firmly voiced decisions became the accepted and logical final plateau of administrative action.

I am assured, and know, that no other man in the past three hectic decades of American agriculture has earned more respect and admiration from the policy people than Mr. Murphy—even if at times they argued vainly for a lost cause.

Under Secretary Murphy was indeed the quiet man in agriculture, although the role he played was monumental. Only once in the past 4 years—and to many that would be enough for a lifetime—has Mr. Murphy been firmly placed in the public eye.

As Under Secretary, he assumed full responsibility for retaining Billie Sol Estes on the Department's cotton advisory committee. At the time, few noted his observation that Estes was put on the committee some 5 months before the Texan was indicted on charges of fleecing some of the Nation's largest private investment houses.

To his credit, the Under Secretary insisted, and so testified before an investigating committee of the Senate, that he considered the cotton transfer dispute to be strictly a legal matter, one that had to be settled by due process of law, and that the Department's position in canceling the allotments of Estes and numerous other farmers could well be set aside in review hearings.

This was exactly what happened. But by the time the whole issue was resolved, Estes had faded out of the headlines and little note was taken that Mr. Murphy's judgment and actions were correct and of high merit.

And it is to Under Secretary Murphy's credit, too, that at a time when anyone who even had a nodding acquaintance with Estes was running for the hills, the Under Secretary won the respect and admiration of some committee members by quietly insisting that even Estes was entitled to his day in court.

Under Secretary Murphy would not budge from his statement that he considered he had "an obligation to give private citizens—even Estes—a fair chance to have their rights considered. This is what I intend to keep on doing. And I hope if the time ever comes when I can't do that, I will leave Government service."

Mr. Murphy took the post of Under Secretary as a pragmatic administrator who knew and accepted the fact that government, and democracy, is a composite of people, personalities, legislative practicality, political maneuvering, economic necessity, social unrest, legal mandate, and necessary restraint.

Under Secretary Murphy never ceased to be fascinated and enamored by the multiple responsibilities and diverse functions of the Department. In a day when most of agriculture is suspect, he takes pride in pointing out the consumer services performed, the conservation practiced, the resources protected, the research carried out, and the impact of abundance in the Nation's domestic and foreign policy.

Even in a department that has had more than its share of brilliant men during its past century of service, Under Secretary Murphy will leave a lasting impression.

One member of the top echelon administrative staff summed it up for a group that has seen high level officials come and go for more than 30 years:

Mr. Murphy has patience, understanding, and know-how. He is a fair, honest, and just man—and one that has the long view. You can't ask for more than that.

I, too, commend Under Secretary Murphy for his fine record and for his dedication as a public servant.

EDITORIAL COMMENT ON THE WILLIAMS AMENDMENT TO THE VOTING RIGHTS BILL

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that there be printed in the RECORD, two editorials, the first of which was published in the Richmond Times Dispatch entitled "A Better Voting Bill," the second editorial appearing in the Knoxville, (Tenn.) Journal of April 25 entitled "Williams Amendment Sound."

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

[From the Knoxville (Tenn.) Journal, Apr. 30, 1965]

WILLIAMS AMENDMENT SOUND

Senator JOHN J. WILLIAMS, of Delaware, has been a thorn in the side of the Johnson administration. He has played the same role in previous administrations where instances of official misbehavior, graft, and use of high office for private gain have occurred. Senator

WILLIAMS was the individual who opened up the now famous Bobby Baker scandal which has been methodically suppressed and covered up by the Senate Rules Committee at the instance of the White House.

Now the Senator is at it again. He sponsored an amendment to the pending administration voting rights bill placing a ban on vote buying in Federal elections, and the Senate yesterday adopted it. The Knoxville Journal has special interest in this amendment, because the inclusion of a provision against vote buying, intimidation of voters, or use of Federal relief to influence voters has seemed to us to be a necessary part of any legislation purporting to safeguard voting rights.

In substance, this newspaper has advanced the same argument in support of the Williams amendment that was put forward by the Delaware Senator in behalf of his bill. A wire service report of the Senator's remarks includes the following:

"He said his 'clean elections' amendment is aimed at a situation which is well known to exist.

" 'If local officials do not or will not * * * it becomes necessary for Congress to act,' WILLIAMS said. He argued that the right to vote is meaningless if a man's vote is not counted, or if it is nullified by another vote illegally cast.

" 'If I feel that the Congress, in its efforts to see to it that the integrity of a man's right to vote is protected, it is obligated to see to it that the integrity of his vote itself is protected,' WILLIAMS said.

"WILLIAMS referred to what he called 'the famous incident in Chicago in the 1960 elections' when 82 votes were cast in a precinct although the lists showed only 22 qualified voters.

" 'Such incidents are every bit as much a blot on the American image and the democratic process as are instances of the denial of the right to vote based on race or color,' he said. Both must be stamped out, and the sooner the better."

The Williams amendment, as might have been expected, was bitterly opposed by the bosses of the big city machines who have traditionally herded thousands of voters into the polling places where their votes were cast in return for payment in cash, or under pressure or threat of suspended relief payments, or for some political favor.

One does not have to go to Chicago's South Side, where it is generally conceded that the 1960 presidential election was stolen from Richard M. Nixon, or to Texas where a now famous instance of ballot fraud involving 87 votes started President Johnson on his career toward the White House, to recognize the need for the Federal ban which Senator WILLIAMS advocates.

Right here in Knoxville, as every politician knows, there is a cluster of "bought wards" where the use of money, whisky, political favor and, in some cases, intimidation have been predictable in every city, State, county or Federal election as far back as man's memory runs. Furthermore, in this community's elections "bought wards" have frequently proved decisive to an extent that this segment of the electorate has received preferred attention from candidates for public office. It is certainly no secret among local working politicians that anywhere from $12,000 to $25,000 is laid out in every campaign for the purpose of enacting this bought vote.

In addition to the politicians who are spokesmen for the big city bosses and hence were against the Williams amendment, there are those who mistakenly, we believe, object to the amendment on the ground that if enacted, it could spell trouble for the legitimate efforts of public service organizations to encourage registration and voting. These opponents of the amendment, we assume, feel that were it on the books and included in a voters' rights statute, its provisions would in some way constitute an obstacle in the way of various Negro organizations which are expected to conduct registration and voting campaigns in the Southern States.

It will not be apparent to most of us how the Williams amendment could in any way be a threat to such efforts. Surely, the public service organizations to encourage registration and voting would not themselves be resorting to the purchase of votes or the payment of individuals for the first time exercising their franchise.

The point that deserves to be hammered home is that votes illegally or fraudulently cast in any election are fairly equated to a denial of any citizen's right to vote. In cases of both voter right denial and of illegal or fraudulent voting an injury is done to the rights of the total citizenship. One is as reprehensible as the other and neither is capable of being defended. It is difficult for us to see how any person, especially a member of Congress, devoted to guaranteeing the rights of all citizens to vote, could object to the Williams amendment.

[From the Richmond (Va.) Times-Dispatch, May 2, 1965]

A BETTER VOTING BILL

A greatly improved voting rights bill is now before the U.S. Senate, in place of the legislative monstrosity which was first introduced some weeks ago. The latest version is by no means perfect, but it is distinctly less objectionable than the measure it replaces.

The new bill is much wider in scope, and comprehends within its purview all bribery and attempted bribery, intimidation or attempted intimidation, and the giving of false information in Federal elections throughout the United States. Thus crooked elections in the North and West, and especially in the cities, are now covered. The White House and the Department of Justice finally had to abandon their untenable position in opposition to expansion of the measure so as to ban fraud, bribery and corruption everywhere, and not just in a few Southern States.

Senator JOHN J. WILLIAMS, of Delaware—to whom the Nation is indebted for many similar contributions—is chiefly responsible for this invaluable expansion of the bill. His amendment passed the Senate, 86 to 0.

Until the full text of the voting rights bill introduced on Friday is available, some of the details will necessarily remain obscure. Obviously, however, the outraged protests from constitutional lawyers, inside and outside the South, carried considerable weight. And the bill was patently unfair toward those States which were to be found guilty of law violations solely because the number of their citizens registered to vote, or actually voting, fell below an arbitrarily chosen percentage.

There is still some of this arithmetical hocus-pocus in the bill, and there appears to be an arbitrary banning of literacy tests in all political subdivisions with 20 percent or more Negro population. This last is about as absurd as you can get.

But at least a State, city, or county can now escape being held automatically guilty of fraud if a U.S. District Court in the District of Columbia determines that the political subdivision in question has taken action to "effectively correct" any discriminatory use of a literacy test. Since the U.S. Civil Rights Commission found no significant discrimination of this kind in Virginia, the original bill's assumption that any Southern State with a low percentage of registrants or voters is automatically guilty of unfairness, was thoroughly gratuitous.

Another improvement in the revised version is that poll taxes are not outlawed therein, whereas the original bill did outlaw them. This last despite the opinion of many constitutional authorities that the provision violated the right of the States to control their own voting requirements in State or local elections.

Under the new dispensation, the Attorney General will institute legal actions "forthwith," designed to get a final judgment from the U.S. Supreme Court as to whether poll taxes in State and local elections violate the 15th amendment. Test cases will be filed in Virginia and the other three States which still have the poll tax as a prerequisite to casting a ballot in such elections.

On the whole, then, the voting rights bill has been greatly improved. Perhaps it can be improved further as it passes through Congress. It should be.

NEED FOR REAPPRAISAL OF WELFARE PROGRAM

Mr. TALMADGE. Mr. President, in the April issue of the Reader's Digest there appeared an article by Judge Juanita Kidd Stout in Philadelphia concerning the need for a reappraisal of welfare programs in America, particularly in many of our large cities.

Judge Stout discusses the futility and foolishness of providing financial aid for families which do little if anything to help themselves, and in reality live in such a manner as to perpetuate their own poverty as well as that of their children, thereby creating generation after generation of relief recipients.

As Judge Stout pointed out, and I quote from her article:

The tragedy of relief is that it takes away from people the drive to work. When a person is capable of earning only $45 a week, he may be all too willing to accept $45 from public assistance for doing nothing. I have the deepest sympathy for the good mother struggling to bring up her children on a welfare grant, and for the father who wants but cannot find work. But I deplore a system that regards the handing out of checks as its prime function, that subsidizes the lazy and immoral home with the taxpayer's dollar.

I share Judge Stout's view that the welfare dollar should be spent to help people help themselves, and to raise the standard of living for needy and deserving citizens. But I do not believe that the taxpayer's money should be doled out in such a manner that it encourages dependency rather than eliminating it.

I call this article to the attention of the Senate, and ask unanimous consent that it be printed in the RECORD.

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

[From the Reader's Digest]

WHY MUST THE TAXPAYER SUBSIDIZE IMMORALITY?: PUBLIC WELFARE SHOULD BE A VEHICLE FOR RAISING THE STANDARDS OF THE RECIPIENT, NOT A REWARD FOR INDOLENCE AND DEPRAVITY

(By Juanita Kidd Stout)

During the years I have been a judge in the Philadelphia County Court, I have learned a great deal about people on relief and about the people who hand out their checks. Frequently I have been outraged by both.

Last year there appeared before our court a child of 13 years who shortly was to be delivered of a baby fathered by her uncle. For at least 10 years her family had been on relief—with a succession of men fathering a succession of children. The girl's 14-year-old sister had produced an illegitimate baby

at 13; another older sister had borne an illegitimate child at 14.

But nothing had been done by welfare workers to take these girls, their brothers and sisters from their depraved home. In fact, one caseworker had filed a written report with the court stating that the mother was providing a "fairly adequate home" for her seven children.

On another occasion, a young man was brought before me on a charge of not supporting the child he had sired out of wedlock—nor was he contributing anything to the support of his own wife's five children. He had not held a steady job in 10 years and had been on an off the relief rolls. I asked his caseworker if anyone had insisted that this healthy man find work. The answer was, "It is not our job to insist."

I said, "This man has completed 11th grade. He is neither stupid nor incapacitated. In the last 10 years a great deal of grass has grown, a good many snows have fallen. Has no one directed him to a lawnmower, a snow shovel?"

The caseworker said no.

I then told the young man that if he failed to get a job in 2 weeks, or to prove that he had tried to get work by visiting 25 places of potential employment, he was going to jail. Four days later he reported back. He had a job.

In another case, a man brought before my court on the charge of failing to support three illegitimate children told me he had been permitted by a relief worker to set up a household with another woman. I didn't believe him, but investigation proved he was telling the truth.

The man was a part-time chauffeur and a partial relief recipient. Both women involved were receiving grants. When I called on the caseworkers of the man's two paramours for testimony, I learned that they indeed had knowledge of the situation. Not only that, but a supplementary grant had been approved for paramour No. 2, reimbursing her for $45 in household money she had used as bail to retrieve her lover from behind bars.

This shocks my conscience, moral as well as financial.

The tragedy of relief is that takes away from people the drive to work. When a person is capable of earning only $45 a week, he may be all too willing to accept $45 from public assistance for doing nothing. I have the deepest sympathy for the good mother struggling to bring up her children on a welfare grant, and for the father who wants but cannot find work. But I deplore a system that regards the handing out of checks as its prime function, that subsidizes the lazy and immoral home with the taxpayer's dollar.

Teenage boys have appeared before me on charges of delinquency, and I have asked them what their fathers did for a living. Their answer: "We get a check from the State."

I get a check from the Government, too. But there is one big difference; I work for mine. Too many youngsters in welfare-supported families never learn the value, the joy, the necessity of work—seeing, as they do, their fathers lying in bed until 10 in the morning, and hearing the family finances discussed only in terms of "waiting until the check comes in."

Many social workers contend that the purpose of welfare is to keep families together. In my opinion, a good institutional home would be far better for the growth and development of children than an unfit private home where a child sees promiscuity, crime, and vice, where the welfare check is used for everything but the child's support.

It is my suggestion that we provide dormitory facilities for these pitiful children, especially in the urban areas where the need is most acute, and that the public assistance law be amended to provide grants for the children's support during the period of dormitory living. There our deprived youngsters would get the benefit of the taxpayer's dollar. They could be supervised in their studies and recreation. From there they could attend local schools. Each would have a clean bed, a warm meal, and a light to read by—things many of them have never known. In the end, such a plan probably would be less expensive than our present system—or lack of system.

Social workers object to institutional care "because youngsters need mother love." They should sit in court with me and hear, day after day, the stories of some of that love: no genuine affection, no supervision, no conversation—nothing but a succession of "boarder" men.

There might be less need for special facilities if more of those involved in administering relief programs were concerned with seeing that a child has a decent upbringing. Certainly, welfare workers have heavy caseloads. But no achievement of substance comes easily, and the result of the extra effort can be inspiring, especially when you are dealing with human lives.

A few years ago five young girls involved in the slashing of another youngster in school were brought before me on a charge of delinquency. Some were from homes supported by welfare grants. None had had any previous contacts with the court. I decided on an experiment: I made each write an essay on the meaning of being a lady; each was told that she must volunteer 100 hours of work in a hospital, a library, or a home for the aged. And each must make a proper skirt, not tight and short like those they had worn in court.

These girls did not only everything the court assigned—but more. They learned the joy of work and of doing for others. They kept coming back even after I had released them from probation, and continually asked me: "What can we do next, Judge Stout?" None has been in trouble since. Two are now married, two are still in school, and one is working.

What these girls needed was helpful direction. Why didn't they receive such aid from a welfare worker before they came before our court?

No child, no adult, can remain on probation in my court unless he learns to read and write. (In Philadelphia we have third- and fourth-generation illiterates on relief.) Moreover, I will not hear the case of any boy, any man, who appears before me with his shirttail out, his hair unkept. Neatness makes an astounding difference, not only in appearance but in outlook.

Certainly, I have the great prod of a jail sentence to get men to look for work, women to care for their children, and youngsters to keep out of trouble. But those who administer the welfare programs have as great a prod—the check.

It seems to me that attendance at free adult schools, to learn to read and write, should be a prerequisite of getting welfare money. If I can demand that a man bring me a list of 25 places where he has applied for work—or proof that he has enrolled in a training program—before I pass sentence in nonsupport cases, I believe welfare departments also can and should insist that he actively seek employment. If I can make it a part of juvenile probation that every youngster in my court bring me a study record signed by his parents or guardians, and his school report cards, why cannot a caseworker check such things?

Much can be done by welfare workers to lift people from the welfare environment. For example, there is great need for women in service jobs today, not just in homes but also in hospitals, office buildings, and plants. A program could be developed whereby the best mother in a block—or perhaps the two best—would take on the day care of the small children while the other mothers took training and got jobs. The babysitting mothers would be paid by the working mothers, and all would be functioning as a part of our society.

I know as well as any social worker that the deplorable homes in our urban centers are breeding and multiplying indolence, illegitimacy, disrespect for law. I know, too, that the collection of relief checks is becoming one of the big occupations in this country. I believe strongly that a moral atmosphere in the home should be a factor in determining eligibility for welfare. An immoral home should not be subsidized.

I grew up in Oklahoma and earned my first money from prizes for my 4–H vegetable garden. Earning this money was enormously important to me. My mother and father always worked harder than they had to, and they taught me the value of work. To this day, my mother, who is 81, works in her garden. And when I go home to visit, she still repeats to me—although I am now 46—the same maxim she spoke over and over to me as a child.

"Juanita," she says, "make yourself useful."

I want no more and no less for every American than the fulfillment of my mother's advice to "make yourself useful." If we have lost certain parents in this generation because of the dependency bred of our welfare programs, let us not also rob so many of our youngsters of this heritage, this privilege—this right to usefulness.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

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

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

TRIBUTE TO MRS. HARVEY FLETCHER, AMERICAN MOTHER OF THE YEAR

Mr. MOSS. Mr. President, it is a pleasure today to make a part of the CONGRESSIONAL RECORD a note of the fine achievements of a Utahan who has gained national recognition.

I speak of Mrs. Lorena Chipman Fletcher, the wife of Dr. Harvey Fletcher, a distinguished scientist and educator at Brigham Young University in Utah.

Mrs. Fletcher has just been selected as American Mother of the Year during ceremonies in New York City.

She is the second Utah mother to receive this honor.

Mrs. Fletcher has 6 children, and 26 grandchildren. All of her sons and daughters have distinguished themselves. One son, James, is currently president of the University of Utah. In a family distinguished by brilliance and diligence, Ph. D. degrees are the norm for the children of Mrs. Fletcher.

This wonderful lady is representative of the excellent qualities of motherhood which are part of our heritage in Utah, a heritage which stretches over 100 years when the Mormon pioneers made their trek across the plains and mountains to Utah.

The selection as American Mother of the Year brings deserved recognition of

the many fine qualities Mrs. Fletcher has shown during her life.

To quote Mrs. Fletcher's comments on her children yesterday when she remarked about her selection for this honor:

They are really the ones who brought this honor to me.

Mrs. Fletcher is modest. Without her training and diligence and love as a mother, her children might not have achieved the honors gained by each in his own right.

I congratulate Mrs. Fletcher on her achievement.

POLISH CONSTITUTION DAY

Mr. BAYH. Mr. President, it is appropriate that we pay attention to the observance of Polish Constitution Day.

On May 3, 1791, the people of Poland adopted a constitution which in some ways resembled our own. Unfortunately, there was no opportunity to put this 1791 Constitution to an adequate test. By 1795 Poland had been conquered and partitioned and her government had been destroyed.

The Polish people deserve great credit for pioneering efforts to establish responsible constitutional government. This experiment, although not long-lasting, helped show the way for other freedom-loving peoples.

A fundamental concept inherent in the Polish Constitution was the sovereignty of the people. This was stated as follows in a significant passage:

All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and the good order of society, on an equal scale and on a lasting foundation.

Although Poland has not yet achieved its full measure of freedom, it is well known that the Polish people remain firm in their aspirations for liberty and justice. Certainly one day these hopes will be realized.

THE WIRETAPPING PROBLEM TODAY

Mr. LONG of Missouri. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a remarkably good news article, entitled "The Wiretapping Problem Today," by an eminent law professor at Buffalo School of Law. The author is Herman Schwartz, formerly assistant counsel on Estes Kefauver's Antitrust and Monopoly Subcommittee. The article which is very current was written for the American Civil Liberties Union and contains a wealth of factual information. It should be of considerable interest to the Senate.

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

THE WIRETAPPING PROBLEM TODAY

(NOTE.—This report, originally approved by the board of directors of the American Civil Liberties Union on May 1, 1961, was prepared by Herman Schwartz, associate professor of law, State University of New York at Buffalo, School of Law. The 1965 revisions relate primarily to factual updating.)

Wiretapping and other forms of electronic eavesdropping are recognized by even their most zealous advocates as encroachments on the citizen's right of privacy, aptly characterized by Justice Louis D. Brandeis as "the most comprehensive of rights and the right most valued by civilized men."

Recently, pressure to authorize such encroachments has intensified.[1] This is partly in reaction to legislative and judicial efforts to curtail wiretapping and other forms of unlawful and unconstitutional police practices, partly because of a serious and apparently growing crime problem, and partly because modern technology has made these types of surveillance both more penetrating and less expensive. The problem is often posed as one of the perennial dilemmas facing our country today: how can one fight organized crime without unnecessarily invading the citizen's privacy? Put this way, the problem seems resolvable only by some type of "compromise" "balanced" solution, such as that currently being supported by a few articulate prosecutors: A limited amount of wiretapping restricted to the investigation of a few major crimes, and closely supervised and controlled by the courts in all but national security cases. Such a narrowly restricted invasion of privacy seems a small price to pay for smashing organized crime, especially since, as is often noted, we are dealing primarily with the privacy of criminals.

Unfortunately, this reasonable "compromise" is no compromise at all. Physical and other inherent factors virtually preclude any meaningful limitations; moreover, the invasion of privacy is far greater than first appears. These same factors preclude effective supervision by the courts; indeed, experience has shown that many courts don't even try to exercise any control.

Further, there are indications that the so-called dilemma is more apparent than real and that wiretapping may not be quite as indispensable as often claimed.

The American Civil Liberties Union therefore believes that the present ban on all wiretapping must not only remain in force but it must be strengthened. The enactment of legislation permitting wiretapping would be a staggering blow to the right of privacy, both symbolically and in practice. Symbolically, because our society will thereby have approved unlimited and unlimitable intrusions by the police into the citizen's personal life, contrary to basic constitutional principles. In practice, because innumerable innocent people will have their privacy invaded by officials, who, as Justice Brandeis said, at their best are "men of zeal, well-meaning but without understanding," and, at their worse, susceptible to graft, corruption, extortion and other improprieties.

I. SOME HISTORICAL BACKGROUND

Anglo-American history reflects a long and persistent conflict between the individual's right to be let alone and the impulse to encroach on that right in order to protect society against its lawbreakers.

In 16th century England, the Stationers' Co. was granted authority to search for and seize seditious libel and writings "contrary to the form of any statute, act or proclamation made or to be made." The Stationers, who were authorized to search anywhere, any time, for seditious matter, used these general warrants on behalf of the state to seek out and destroy Puritan and other dissenting literature. Subsequent regimes in 16th, 17th and 18th century England reaffirmed these powers for their own purposes until the 1760's, when such powers were held unlawful.

While these practices were being curbed in England, Parliament granted colonial revenue officers complete discretion to search in suspected places for smuggled goods by means of writs of assistance. The struggle against these writs was described by John Adams as "the first act of opposition to the arbitrary claims of Great Britain." Revulsion against general warrants and writs of assistance led the Founding Fathers to include in the fourth amendment to the Constitution this express ban on general warrants: "no warrants shall issue, but upon probable cause * * * and particularly describing the place to be searched and the person or things to be seized."

The Supreme Court has refined this and has developed the corollary doctrine that a search can be made only to obtain certain objects: tools of crime, fruits of crime, contraband or goods on which an excise duty should have been paid. In other words, the Court has refused to allow police officers to search a person's home merely to obtain evidence of crime. For example, in a murder case, a policeman may obtain a search warrant to search for and seize the murder weapon but not the victim's bloodstained shirt.[2]

Tapping of telephone communications appeared shortly after the telephone's invention. Police officers were reported to be wiretapping as early as 1895. The practice flourished during prohibition and in 1928 produced the most important Supreme Court decision in the area, *Olmstead* v. *United States*.[3] In that case, over the vigorous dissents of Justices Brandeis and Holmes, and by a 5-to-4 vote, the Supreme Court held that telephone conversations were not protected by the fourth amendment against wiretapping because a tap was neither a physical trespass into the home nor a seizure of tangible materials.

In 1934, Congress passed the Federal Communications Act, section 605 of which prohibited the interception of any communication, and the divulgence or use of such communication. This was construed by the Supreme Court in 1937 to prohibit wiretapping[4] and to exclude from Federal trials any evidence obtained through the use of a wiretap, either directly or indirectly.[5] A subsequent decision established that the prohibition applied to intrastate as well as to interstate telephone communications.[6]

In 1942, however, the Supreme Court began to show a more permissive attitude toward wiretapping and other forms of electronic eavesdropping. It first ruled that a defendant could not object to the use of wiretap evidence by the Government, unless he was a party to the conversation,[7] and then, that a detectaphone placed against a wall in an

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[1] In the 1961 congressional session, four separate bills authorizing wiretapping and electronic eavesdropping were introduced in the Senate: S. 1495, S. 1086, S. 1822, S. 1221, 87th Cong., 1st sess. S. 1086 was reported out favorably by the Subcommittee on Constitutional Rights, with certain amendments, but died there. In the 1962 congressional session. an administration-backed bill, S. 2813, was introduced, and in 1963, was reintroduced as S. 1308, 88th Cong., 1st sess. In February 1965, the Senate Government Operations Committee called for legislation to authorize wiretapping, in its report on the "Valachi Hearings" and the Cosa Nostra.

[2] The reasoning underlying this distinction will be explained later in the report.

[3] 277 U.S. 438 (1928).

[4] *Nardone* v. *United States*, 302 U.S. 379 (1937).

[5] *Nardone* v. *United States*, 308 U.S. 338 (1939).

[6] *Weiss* v. *United States*, 308 U.S. 321 (1939).

[7] *Goldstein* v. *United States*, 316 U.S. 114 (1942).

adjoining room to hear one side of a telephone conversation was not covered by section 605.[8] Justices Frankfurter, Stone and Murphy dissented in each case, stating a willingness to overrule the *Olmstead* decision. In 1952 the Supreme Court, in *Schwartz* v. *Texas*,[9] further held that State courts could consider wiretap evidence obtained by State officials even though such wiretapping was illegal. This decision was based upon an analogy with the then controlling decision of *Wolf* v. *Colorado*[10] which held that State courts could consider evidence seized by State officials even though such seizure was unconstitutional. And in *Rathbun* v. *United States*[11] the Supreme Court further declared that permission to eavesdrop by one party to a telephone conversation was sufficient to legalize a detective's listening in on an extension phone.

Even before the Supreme Court's more permissive attitude the U.S. Department of Justice served notice that it would tap. Originally, in the late twenties and thirties, U.S. Attorneys General, FBI Director J. Edgar Hoover, and other Federal officers stated that they disapproved of wiretapping and did none.[12] However, in 1941, under wartime pressure the Department of Justice declared that wiretapping itself was not illegal under section 605 so long as there was no divulgence of the information so obtained. The Department then construed transmission of wiretap evidence by a Federal law enforcement officer to his superior as not a divulgence.[13] This interpretation ignored the express prohibition in section 605 of any "use" of the information so obtained.

The Department's position and the Supreme Court's rulings have resulted in a complete nullification of the prohibitions of section 605, at least insofar as wiretapping by law enforcement officials is concerned. Many State and local officials have continued to tap to this day, with complete impunity. Indeed, despite the clear prohibition of section 605, New York and other States have enacted statutes purporting to authorize law enforcement wiretapping and the use of the evidence so obtained.

In 1957, however, a Supreme Court decision struck a blow at State wiretapping. In *Benanti* v. *United States*,[14] the Court flatly stated that State legislation permitting wiretapping was in conflict with section 605.[15] New York City prosecutors such as Edward S. Silver, of Kings County, and Frank S. Hogan, of New York County, responded with vigorous complaints that their entire operations would be crippled if section 605 were enforced against them. These complaints grew louder after a concurring opinion in a decision of the U.S. Court of Appeals in New York called upon the U.S. attorney to indict and prosecute any use of wiretap evidence by State law enforcement officers.[16]

In June 1961, the Supreme Court overruled *Wolf* v. *Colorado*,[17] the decision relied upon in *Schwartz* v. *Texas*, and held that State courts could not admit evidence obtained by an illegal search and seizure. This decision has raised hopes that the Court will similarly prohibit State courts from admitting illegally obtained wiretap evidence.[18] So far, such hopes have not been realized.

During the last 25 years many Federal and State legislative hearings have been held in an attempt to resolve the problems. Although State legislative committees in California and New Jersey have concluded that there is no need for any wiretapping authority, steady pressures have been exerted by District Attorneys Hogan, Silver, and O'Connor, of New York, Chief of Police Parker, of Los Angeles, and others, for such authority. In hearings held in May 1961, before the U.S. Senate Subcommittee on Constitutional Rights[19] the Department of Justice also supported legislation authorizing both Federal and State wiretapping, and in January 1962, proposed a comprehensive bill authorizing both Federal and State wiretapping in certain circumstances.[20] Hearings on this bill were held in 1962,[21] and the bill was reintroduced in 1963. Three other bills have also been introduced. The pressures now are so great that despite many prior unsuccessful attempts to persuade Congress to adopt such legislation, the current drive may be successful.[22]

II. THE THREAT TO LIBERTY FROM WIRETAPPING AND OTHER ELECTRONIC EAVESDROPPING DEVICES

An essential difference between the totalitarian state and the free society is that the totalitarian state seeks to deprive the citizen of his privacy by trying to observe all his movements, words, and even thoughts. Fear and insecurity permeate every aspect of life and the pursuit of happiness is merely a phrase.

Recognizing this, as Mr. Justice Brandeis has said: "The makers of our Constitution sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred as against the Government, the right to be let alone—the most comprehensive of the rights of man and the right most valued by civilized men."[23]

And in 1894, the first Mr. Justice Harlan declared: "We said in *Boyd* v. *United States* (116 U.S. 616, 630)—and it cannot be too often repeated—that the principles that embody the essence of constitutional liberty and security forbid all invasions on the part of the government and its employees of the sanctity of a man's home, and the privacies of his life. As said by Mr. Justice Field in *Re Pacific R. Commission* (32 Fed. Rep. 241, 250), 'of all the rights of the citizen, few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves, not merely protection of his person from assault, but exemption of his private affairs, books, and papers from the inspection and scrutiny of others. Without the enjoyment of this right, all others would lose half their value.' "[24]

Privacy does not, however, mean solitude. Each man must communicate and exchange thoughts and ideas with others—his wife, his children, his doctor, his lawyer, his religious adviser, his business acquaintances and associates, his friends, his constituents. Often this must be confidential. The growth and complexity of modern society have made the telephone probably the major instrument for such intercourse, for it provides instantaneous, direct, spontaneous, and ostensibly private communication.

To permit law enforcement authorities to wiretap, even under limited circumstances, would seriously impair this privacy so necessary to a free society. Awareness by the public of the power to wiretap is alone sufficient to reduce drastically the sense of security and privacy so vital to a democratic society. The mere thought that someone may be eavesdropping on a conversation with one's wife or lawyer or business associate will discourage full and open discourse.[25] Indeed, government officials who are in office for a period of time can build up a substantial body of information on other public officials and representatives, which can seriously impair the working of representative democracy.[26]

The rapid and multiple development of other forms of electronic eavesdropping only aggravates the threat of this fundamental invasion of personal liberty. In a recent case, *Silverman* v. *United States*,[27] a spike was inserted into a wall and became a giant microphone picking up all conversations on two floors of a house. The Supreme Court held that this violated the fourth amendment. There are now other eavesdropping devices which can record conversations at great distances or behind closed doors easily and inexpensively. The Supreme Court expressed shock and dismay at the microphone in the bedroom installed by California police in *Irvine* v. *California*.[28] By these devices the most private and intimate utterances, often deliberately confined to one's home, are exposed to the ears of listening police. Inevitably, miniature television and image recording instruments will soon be developed and the omnipresent telescreen of George Orwell's "1984" will be with us.

The ACLU believes that all such types of such electronic eavesdropping violate the fundamental rights protected by the fourth amendment to the Constitution. The found-

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[8] *Goldman* v. *United States*, 316 U.S. 129 (1942).

[9] 344 U.S. 199 (1952).

[10] 338 U.S. 25 (1949).

[11] 355 U.S. 107 (1957).

[12] See Westin, "The Wiretapping Problem," 52 Columbia Law Review 165, 173–74 (1952).

[13] See Dash, Schwartz and Knowlton, "The Eavesdroppers," 394 (1959) (hereinafter cited as "The Eavesdroppers").

[14] 355 U.S. 96 (1957).

[15] 355 U.S. at 105.

[16] *Pugach* v. *Dollinger*, 277 F. 2d 739, 746 (1960), *aff'd*, 365 U.S. 458 (1961).

[17] See *Mapp* v. *Ohio*, 367 U.S. 643 (1961).

[18] See Note, 75 Harvard Law Review 80, 167 (1961).

[19] Subcommittee on Constitutional Rights of the Senate Judiciary Committee. This was the last set of hearings conducted by this committee which began its inquiry in May, 1958. The subcommittee hearings prior to 1961 are cited as "Hearings," the May 1961 hearings are cited as "1961 Hearings."

[20] S. 2813, 87th Cong., 2d sess. (1962).

[21] Hearings on Wiretapping—The Attorney General's program before the Senate Judiciary Committee, 87th Cong., 2d sess., cited as "1962 hearings."

[22] As part of this pressure, New York District Attorney Hogan recently found it necessary to dismiss an indictment against seven narcotics peddlers on the ground that the U.S. Court of Appeals in New York had held that it was a Federal crime to introduce wiretapping evidence, New York Times, Nov. 15, 1961, even though this has been common knowledge for many, many years. This tactic was timed to coincide with consideration of S. 1086 by the United States Senate Judiciary Committee, and "was designed to increase the pressure for congressional action." New York Times, December 18, 1961.

[23] *Olmsted* v. *United States*, 277 U.S. at 478.

[24] *I.C.C.* v. *Brimson*, 154 U.S. 447, 479.

[25] Simply being aware of the possibility of electronic eavesdropping destroys one's sense of security. This was ironically demonstrated by the U.S. attorney's office in Washington, D.C., in 1963, when a hidden microphone was found in a room in the Mayflower Hotel. Shortly thereafter it was reported in the Washington Post that "the U.S. attorney's office which is investigating the mysterious Mayflower 'bugging' case has had some quiet checks made of its own telephone lines against electronic eavesdropping. * * *. The security drive has spread to almost everyone connected with the Mayflower case. Lawyers and private detectives in the case have had their telephones checked or have checked them personally in search of tapping devices."

[26] For reports of such tapping, see Fairfield and Clift, "The Wiretappers," The Reporter, 19–22 (Dec. 23, 1952), and the recent hearings before the Senate Administrative Practices and Procedures Subcommittee, February 1965.

[27] 365 U.S. 505 (1961).

[28] 347 U.S. 128 (1954).

ers of our Nation established the protections of the fourth amendment because they had seen their homes subjected to unlimited invasions and searches by the authority of general warrants and writs of assistance; they sought to insure that such unlimited searches and general warrants would never be repeated. Government officials were to be allowed only specific warrants, particularly describing, in the words of the fourth amendment, the "place to be searched" and the "thing to be seized." [29]

Electronic eavesdropping cannot be so limited. Any authorization for such practices would necessarily be general, rather than a specific warrant limited to specific objects and places, for it would necessarily permit a general exploratory search for evidence in aid of prosecution. This is because such devices inevitably pick up all the conversations on the wire tapped or room scrutinized, and nothing can be done about this. Thus, not only is the privacy of the telephone user invaded with respect to those calls relating to the offense for which the tap is installed, but (1) all his other calls are overheard, no matter how irrelevant, intimate, or otherwise privileged, and thus all persons who respond to his calls have their conversations overheard; (2) all other persons who use his telephone are overheard, whether they be family, business associates, or visitors; and (3) all persons who call him, his family, his business, and those temporarily at his home are overheard.[30]

Any assumption that wiretapping and eavesdropping affect only criminals is thus totally unwarranted. The recently proposed Federal bills and existing State statutes do not limit the eavesdropping even to persons suspected of crime. They permit installation of eavesdropping devices wherever "evidence of crime" in general, or of certain specific crimes, may be obtained, whether it be on the home or business telephone of a witness, or merely an acquaintance of the suspect, witness, or even victim. In testimony on February 5, 1965, before the Illinois Crime Commission, a high New York City police officer showed how widely taps may reach when he referred to "a telephone call to friends of a criminal [which] was intercepted." Such friends may be totally innocent of any wrongdoing, and yet an order may issue for a tap on their line.

And what about the suspect himself? We must always keep in mind that the fundamental principle of American justice is that everyone is presumed innocent until he is actually proven guilty beyond a reasonable doubt. A large proportion of people suspected of crime are not even arrested, much less found guilty, yet their privacy and the privacy of many others will have been flagrantly violated if their wires are tapped.

Wiretapping's broad sweep is most apparent where public telephones are tapped. Of 3,588 telephones tapped in 1953–54 by New York police, 1,617 were public telephones, or almost half.[31] It is inevitable that in these cases only an infinitesimal number of the intercepted calls are made by the suspect or by anyone even remotely connected with him; yet, the privacy of numerous other callers is invaded, many of whom may have resorted to a public telephone precisely in order to obtain a privacy not obtainable at their homes or businesses.

Because of this dragnet quality, wiretapping and other forms of electronic eavesdropping cannot be regulated by controls similar to search warrants; the object to be seized or the premises to be searched simply cannot be limited or even specified, because the very nature of a wiretap or spike microphone is to catch all calls and conversations. Indeed, the proponents of wiretapping themselves admit that the process is indiscriminate, because one of the alleged benefits of wiretapping is that evidence of one crime has occasionally been uncovered when policemen were looking for evidence of another crime.[32] Such claims would explain why the police frequently put a tap on the line of anyone whom they believe to be suspicious.[33] New York State Assemblyman Anthony P. Savarese, a vigorous proponent of authorized law-enforcement wiretapping, made this very clear, saying:

"All they (law-enforcement officers) want to do is to exercise surveillance over his (a known criminal's) phone. That is the whole purpose of law-enforcement tapping. If they know that a certain crime is going to be committed, there is no point in tapping his wire. It is to find out what this known criminal is going to do that you want the surveillance over his phone." [34]

Such surveillance searches and wiretaps are inherently and necessarily general searches, not specific, and they are thus clearly and flagrantly in violation of fourth amendment standards.

That wiretaps are general and not specific searches is also reflected in the very language of statutes to legalize the practice. Existing and proposed statutes permit wiretapping to "obtain evidence of the commission of a crime," [35] or of specific crimes,[36] without requiring, as does the fourth amendment, specification of "the things to be seized," the particular conversations. Indeed, the Attorney General's bill goes even further, for it permits a tap if "facts concerning (any specified) offense may be obtained through such interception," and the phone intercepted is "commonly used by" the suspect. A public telephone in a frequently visited bar or railroad station, or a private telephone of a friend, one's lawyer or a relative—all satisfy these criteria.

The language of these provisions is, of necessity, the language of a general warrant and no more specifically is possible, for it cannot be determined in advance what conversations will be intercepted. Nor can it be specified what "place (is) to be searched" by citing the specific telephone number, for also intercepted are calls emanating from the telephone numbers of all others who call the intercepted number, a totally indefinable class.

Indeed, most of these statutes do not begin to meet other constitutional standards for a valid search under the fourth amendment. Under a valid search warrant, the police can only search for articles involved in the commission of the crime, fruits of the crime, contraband, or items on which excise duties should have been paid. Such limitations are reflected in the Federal Rules of Criminal Procedure, rule 41(b). The proposed wiretapping statutes, on the other hand, permit a search for and seizure of mere evidentiary matter, pieces of evidence to assist in prosecution and conviction. The Supreme Court has recently held that "private papers desired by the Government merely for use as evidence may not be seized, no matter how lawful the search that discovers them." [37]

The underlying principle—one of the most fundamental to personal security in a free society—is clear: a person has an absolute right of privacy against any police invasions for all of his papers and effects except in a few special cases: (1) Those things he has no right to have in the first place, such as fruits of crime or contraband; (2) those where he has not given the community its lawful share of the value (dutiable goods); and (3) those which he has used to break the law and to which he has thereby forfeited his rights. Everything else, no matter how interesting or useful it may be as evidence, is immune to a search warrant.[38]

One of the major pressure points in the current drive for Federal wiretapping legislation is to give States the right to use wiretapping for the detection of crime, a practice which a few States already authorize.

Granting the States the right to use wiretapping for some or all crime is especially unwise. In the first place, telephone communication is frequently interstate; permitting each State to decide for itself whether to authorize its law enforcement officers to wiretap will inevitably result in wiretapping the telephone conversations of people who reside in States where law enforcement officers may not wiretap. Thus, if a Senator or Congressman in the District of Columbia, Illinois, Pennsylvania, California, or Michigan is called by someone or makes a call to someone in New York or Massachusetts, and the latter's telephone is being tapped, the

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[29] The ban on general warrants, particularly in cases touching upon the first amendment, was recently reaffirmed in *Stanford* v. *Texas*, — U.S. — (Jan. 18, 1965), where the Supreme Court unanimously struck down as too general a search warrant authorizing the seizure of "books, records, pamphlets, cards, receipts, lists, memoranda, pictures, recordings, and other written instruments concerning the Communist Party of Texas, and the operations of the Communist Party in Texas."

[30] "In the course of tapping a single telephone a police agent recorded conversations involving at the other end, the Julliard School of Music, Brooklyn Law School, Consolidated Radio Artists, Western Union, Mercantile National Bank, several restaurants, a drug store, a garage, the Prudential Insurance Co., a health club, the Medical Bureau to Aid Spanish Democracy, dentists, brokers, engineers, and a New York police station." Cited in Westin, "The Wiretapping Problem," 52 Columbia Law Review 165, 188, n. 112 (1952).

The Queens County District Attorney had called for wiretapping authority in criminal abortion cases. 1961 Hearings 327. If such authority were granted, confidential communication between a suspected physician and all of his patients—whether abortion patients or not—would be overheard. Such interceptions have already taken place in New York. See *People* v. *Cohen*, 248 N.Y.S. 2d 339 (Sup. Ct. Kings 1964).

[31] Note, "Wiretapping in New York," 31 New York University Law Review 197, 210, n. 96 (1956).

[32] "The Eavesdroppers," 211, 278.

[33] "The Eavesdroppers," 66.

[34] 1961 hearings 463.

[35] S. 1086, 87th Cong., 2d sess.; N.Y. Code Crim. Proc. sec. 813a.

[36] S. 1308, 88th Cong., 1st sess.

[37] *Abel* v. *United States*, 362 U.S. 217, 235 (1960); see also cases cited therein; and *United States* v. *Lefkowitz*, 285 U.S. 452, 465–66 (1932). Indeed, the Attorney General's bill would permit wiretapping merely to obtain "facts" of certain national security offenses which is apparently meant to include material which would not be admissible in evidence. See S. 1308, sec. 5(a). See also sec. 8(c)(2) which authorizes a judge to issue an order where he has reason to think "facts concerning [any offense for which wiretapping is permitted under the act] may be obtained through such interception."

[38] The Supreme Court has not yet dealt with the question whether this restriction will be imposed on State law enforcement officers under *Ker* v. *California*, 374 U.S. 23 (1963). Compare the 1962 amendments to the New York Code of Criminal Procedure sec. 792(4) which permits a search for and seizure of "property constituting evidence of crime or tending to show that a particular person committed a crime." A recent lower court decision in New York, however, held that a State cannot constitutionally authorize electronic eavesdropping because such eavesdropping inevitably intercepts merely evidentiary matter. *People* v. *Grossman*, N.Y. Law J. (Kings Co.) Mar. 2, 1965, pp. 17–18 (Sobel J.).

privacy of the Senator or Congressman has been invaded even though he did nothing but answer or place a telephone call, and no matter how irrelevant the conversation to the purpose of the tap.

Moreover, the record is full of abuses of the right to wiretap by State and local officials. Most of the bills authorizing State wiretapping set either no limit or the broadest of limits on the crimes for which a tap may be imposed. Thus, one recent proposal permits State wiretapping for crimes "involving gambling, liquor, narcotics, or prostitution or any crime punishable by a maximum sentence of 5 years or longer." [39] If an unpopular group is suspected of violating one of the many technicalities of a State liquor law at a benefit party, even though such charges turn out to be baseless, a tap may be put on the telephones of that group. And recent experience in the South shows that there are many ancient penal statutes which carry severe penalties and which can be dusted off to obtain wiretapping authority.

It was also reported at the recent Illinois Crime Commission hearings that telephones were tapped during the racial disorders in New York City in the summer of 1964. Since some disorder is possible in every civil rights demonstration, this would seem to indicate that civil rights groups are now a legitimate target of police wiretapping.

The South offers an example of how wiretapping can be utilized to strengthen existing racial segregation. A Federal grand jury in New Orleans, La., has indicted three men, including a Louisiana State senator, for wiretapping the telephones of three religious leaders. These leaders, a Baptist, a Jew and a Quaker, were among some 53 Baton Rouge ministers who had earlier issued an "affirmation of religious principles" that "discrimination on the basis of race is a violation of the divine law of love." Another Baton Rouge minister declared in an anonymous interview that the purpose of the tapping was "to take these recordings to key members of our congregations and stir up trouble against us. The two chief targets were Mackie (Quaker) and Reznikoff (Jewish), in order to stir up all the latent hatred for anti-semitism which you can find in a small minority in any church congregation." The minister added that he had been told flatly that the ultimate purpose of the tappers was "to run out of town every clergyman who signed this document, within the space of the next 2 years." [40]

This alleged wiretapping occurred at about the same time as the formation of a Southern Association of Intelligence Agents, representing police officials of nine southern States. The purpose of this organization is to ferret out "subversion," i.e., integrationist efforts.[41] Legalized wiretapping could become a major weapon in the armory of such groups.

Moreover, the legitimation of wiretapping will inevitably produce an increase in the number of States where wiretapping is used. At present, most States prohibit law enforcement and other wiretapping. Testimony before the Senate Judiciary Committee in 1962 indicated, however, that if the bill passed, wiretapping authority would immediately be sought in other States, such as Pennsylvania, Florida and Connecticut.[42] The reductio ad absurdum was reached when a district attorney from Iowa testified that although there was no real problem of organized crime in his State, wiretapping "would be a valuable tool in Iowa to help us in solving some of the crimes that we have." [43] Nor is there any reason to think that the limitation to specified crimes will be meaningful. The bill introduced by the Attorney General in 1962 would permit the Federal Government to use wiretapping for offenses involving national security—including the Smith Act [44]—murder, kidnapping, extortion, narcotics, bribery, transmission of gambling information or racketeering. It would authorize the States to permit wiretapping for murder, kidnaping, extortion, bribery and narcotics. Whatever one may say about these choices this limitation will inevitably be eroded as pressure builds up to permit wiretapping for other offenses. Such pressure has already begun. At the hearings on the bill in 1962, attempts were made to include counterfeiting, robbery, gambling, abortion, and larceny by fraud. Although indicating a desire to maintain limitations, the Attorney General also showed a willingness to expand the list, saying "I would think that an argument could be made for counterfeiting * * * I think that a strong argument can be made for including robbery and perhaps we should have included it." [45]

Proponents of wiretapping say that abuses can be avoided by State courts applying a court order system. But some State judges cannot be depended on too heavily, especially in areas where the rights of either unpopular minorities or unpopular individuals are concerned. For example, a State officer enforcing a segregation statute would be entitled to a wiretap order for enforcing this law, at least until the law was held unconstitutional. There is also the hard reality that State courts often seem less solicitous of the rights of the individual. Thus, many of the most fundamental Supreme Court opinions in the area of individual liberty have been decisions reversing State courts. Also, some State judges seem less than immune to pressure from prosecutors and their staffs, especially with respect to law enforcement investigatory techniques. Consequently, judge shopping is resorted to and "it is practically unheard of for a judge to fail to grant a wiretap order for the district attorney." [46] New York prosecutory and judicial personnel support this statement. Thus former New York Judge Ferdinand Pecora has stated that although he sometimes refused to grant police department applications in situations where other means were available (which generally involved taps on the wires of individual prostitutes) he never refused an application where gambling was concerned. And, as the evidence below shows, there are many instances of fraud and misrepresentation.

Because of the unlimited and unlimitable invasion of the fundamental rights protected by the fourth amendment, wiretapping and other forms of electronic eavesdropping must be prohibited. Even though a bare majority of the Supreme Court did declare in the *Olmstead* case that the fourth amendment does not directly protect telephone conversations against wiretapping, this decision has been sharply criticized by almost all legal commentators and greatly weakened. Indeed, Senator Kenneth Keating, of New York, sponsor of a bill to exempt from section 605 State wiretapping pursuant to a court order, has declared that his bill reflects the Brandeis dissent in Olmstead.[47]

III. THE ARGUMENTS FOR WIRETAPPING [48]

Prosecutors and police authorities who favor permissive wiretapping assert that in fact they do very little tapping and that it is indispensable where used. Neither of these contentions is supported by the record.

The extent of wiretapping

The statistics published by the district attorneys of New York and Kings Counties show an average of about 110 orders per year for the period 1950–59, with 21 orders in 1964 in Kings County covering 29 phones. The New York City police obtained 124 orders in 1958, 225 in 1959, 451 in 1963 and 671 in 1964.[49] The enormous increase in police wiretapping is obvious and startling. Thus, at least 335 orders were obtained in New York City in 1959, covering more than 500 telephones, for an order frequently covers more than one telephone.[50] Since one tap catches many, many people per day, especially taps on business and public telephones, and perhaps 45 to 50 percent of the telephones tapped are public phones [51]—these orders produced an invasion of the privacy of thousands of people every day.

Moreover, there is ample evidence of much unauthorized police wiretapping throughout the country.[52] As New York Assemblyman Savarese's remarks indicate, much of this unauthorized eavesdropping is resorted to as surveillance and sampling tapping, on the basis of which an application for an order can be framed if the tap turns up useful information. Indeed, the very vigor of the claims for the indispensability of wiretapping by New York District Attorneys Hogan, Silver and O'Connor makes it difficult to understand their claims of infrequent use. At one point, District Attorney Hogan called wiretapping "the single most important weapon in the fight against organized crime" and declared that without it "law enforcement in New York is virtually crippled in the area of organized crime." He then submitted a table showing use in only 20 to 22 investigations a year for 10 years, even though his office handled some 34,000 matters a year during this period.[53] It is thus quite easy to understand Congressman EMANUEL CELLER'S trenchant comment: "If you have a method which is so easy * * * I cannot conceive how in ordinary circumstances the police wouldn't

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[39] S. 1086, 87th Cong., 1st sess. (1961), as reported by the Senate Subcommittee on Constitutional Rights.

[40] Baton Rouge State-Times, Oct. 23, 1961. See also Washington Post & Times Herald, Oct. 10, 1961.

[41] See New York Times, Nov. 27, 1961.

[42] 1961 hearings 211, 217, 258.

[43] Id. at 265.

[44] The dangers to freedom of speech have been pointed out frequently. See e.g., Donnelly, "Electronic Eavesdropping," 38 Notre Dame Lawyer 667, 686 (1963).

[45] 1962 hearings at 22, 23.

[46] "The Eavesdroppers," 45; of his experience as a New York assistant district attorney former U.S. Attorney General William P. Rogers said, "I don't recall any difficulty in getting the permission of the court. My own experience is that it's pretty easy." Hearings on H.R. 408 before Subcommittee No. 3 of the House Committee on the Judiciary, 83d Cong., 1st sess., ser. 7 at 37 (1953). See also Sobel, "Current Problems in the Law of Search and Seizure," 111 (1964).

[47] 1961 hearings 13.

[48] Few arguments have been seriously presented for the use of any other electronic eavesdropping devices. But see sec. IV infra.

[49] The figures for 1950 through 1959 appear in hearings on the current wiretapping dilemma in New York State created by Federal court decisions, 10–14, 62 (1960). (Hereafter cited as "N.Y. hearings.") The figures for 1963 and 1964 appear in testimony by New York City Assistant Chief Inspector John F. Shanley and Kings County Chief Assistant District Attorney Elliott Golden before the Illinois Crime Commission, on Feb. 5, 1965. The latter's testimony is reprinted in N.Y. Law J. (Mar. 1, 2, 1965).

[50] See statistics for Kings County, N.Y., which show 1.7 telephones per order. N.Y. hearings at 62.

[51] See p. 10, above.

[52] "The Eavesdroppers," 39–73, 122, 151, 168, 217, 247; Fairfield and Clift, "The Wiretappers," the Reporter, Dec. 23, 1952, Jan. 6, 1953; Westin, "Wiretapping: The Quiet Revolution," Commentary, May 1960, 333, 337; Westin, "The Wiretapping Problem," 52 Columbia Law Review, 195–196; cf. Attorney General Kennedy, Look magazine, Mar. 28, 1961, p. 25.

[53] 1961 hearings 437, 440.

avail themselves of that very facile method of detecting crime." [54]

Nor is it likely that the amount of wiretapping or electronic eavesdropping can be significantly reduced or even controlled by a court order system, either State or Federal. With the vast amount of unauthorized official wiretapping that goes on, is it at all likely that any court control which seriously attempts to limit and reduce the amount of wiretapping will be successful? If the police find the limitations chafing, they can ignore them as much as they ignore the present absolute prohibition. The only result would be to make the practice legal and respectable and to sanction the admission of wiretaps in evidence, thereby removing one of the few deterrents to such improper conduct.[55]

Indeed the possibility of getting an order rendering the wiretap evidence admissible will only encourage sample tapping to see whether it is worthwhile to apply for an order.

Finally, the protections contemplated by a preliminary showing that the wiretap will turn up evidence of a crime are futile. As the Attorney General of New Mexico recently stated "these procedures are of necessity ex parte and lend themselves to star chamber tactics. Any time a judge hears only one side of a controversial question he is at a distinct disadvantage in reaching a just decision." [56] Review of such proceedings is a meaningless formality, for it can only be of a cold printed record long after the fact, and few appellate courts will be inclined to overrule the discretion of the lower court judge who issued the order. Moreover, in most instances the tap will turn up nothing useful and no one but the judge and the investigator will know of it. Thus, not only will the application be ex parte, but unlike a search warrant, there will never be an opportunity to review the propriety of the order for in most cases, no adversary interest will know about the tap.

The opportunities for challenge are reduced even further by the fact that very few taps are directly introduced in evidence. In part, this is because in court, the tap can be challenged for veracity and accuracy and much wiretap evidence would prove inadmissible. Instead, taps are used primarily as leads to other evidence and the defendant must try to ferret out whether any of the evidence used against him is derived from wiretapping. According to a Yale Law Journal study some years ago, Federal judges have been very reluctant to permit such an inquiry, and the rule excluding wiretap evidence from the Federal courts has proven an illusory safeguard.[57] There is no reason to think defendants have been more successful in tracing wiretap evidence in State courts.[58] Indeed, conversations with defense attorneys in New York indicate that except where the police or prosecutor voluntarily discloses the existence of a wiretap, it is almost impossible to learn whether a wiretap has been used and to challenge its issuance.

The small probability of a challenge to the propriety of a wiretap order invariably makes for lax judicial scrutiny of the application, especially where judges are overworked or otherwise unable to make a close study of papers. Some judges are, of course, more prosecution-minded than others, and practicing lawyers know that careful judge-shopping is one of the most important and widely practiced skills of any successful law practice. This may be one reason why New York and Queens district attorneys assert that, although they have occasionally been required to modify their supporting papers, they have never been denied a wiretap order.

Nor does experience with a court system provide any basis for faith. Such systems have been in effect in New York and a few other States for several years. One experienced New York judge has observed that the papers in support of the applications frequently contain little more than the "formal matters presented by the Statute;" [59] and there have even been demonstrated instances of false affidavits.[60]

An extensive 2-year study concluded that:

"The experience of the statutes throughout the country providing for judicial supervision has been very bad. Law enforcement officers have had no difficulty obtaining a court order when they wanted it. Judges who are tough are just bypassed.

"In addition, police officers have shown complete impatience with the court order system and more often have engaged in wiretapping without a court order than with a court order." [61]

In sum, the court order system provides far too meager a protection for so great and dangerous an invasion of privacy.

Is there really a need for wiretapping?

Despite the clamor for wiretapping by certain prosecutors no clear case has yet been made for its necessity. In the first place, many prosecutory officials either deny or refuse to assert that wiretapping is so indispensable as to outweigh the danger to personal liberty. In response to inquiries from the Senate Subcommittee on Constitutional Rights only some 13 out of 45 attorneys general called for wiretapping authority. Most of the responses refused to express an opinion (approximately 26) and 6 came out flatly against wiretapping, including the attorney general of such a populous State as California.[62] At other hearings the attorney general of Pennsylvania condemned wiretapping and the State's attorney in Cook County, Ill., a State where wiretapping is totally outlawed, declared: "I do not think one can honestly say that wiretapping is a sine qua non of effective law enforcement." [63] Especially significant is the fact that so many State attorneys general did not consider it necessary to call for wiretapping authority, although in some cases at least, this was probably because wiretap evidence is admissible even if illegally obtained.

State legislative investigating committees in New Jersey [64] and California [65] have recently found that the need for wiretapping does not outweigh the damage to individual liberty and judges who have issued wiretap orders, such as New York Justices Samuel Hofstadter and Nathan Sobel and New York Special Sessions Judge Frank Oliver have disparaged its value.[66] Indeed, as shown by the 1961 study and compilation by the Senate Subcommittee on Constitutional Rights, 33 States, including Illinois, Michigan, Pennsylvania, California, Florida and other populous and industrialized jurisdictions have completely outlawed wiretapping and in some instances its fruits. This was done both by statute (Wisconsin, 1961, Pennsylvania and Illinois in 1957) and by judicial decision (California, Florida, and New Jersey, within the last 6 years, and Michigan earlier).

On the Federal level, until recently, there has also been less enthusiasm for wiretapping than might be expected. The Department of Justice has recently proposed legislation authorizing broad Federal and State wiretapping and endorsed a similar bill at the hearings in May 1961. However, in March 1961 Attorney General Robert F. Kennedy declared that he "would not be in favor of its use under any circumstances—even with the court's permission—except in certain capital offenses," which he listed as "murder, treason, and kidnaping." [67] Similarly, although FBI Director J. Edgar Hoover now appears converted to the cause of wiretapping, at various times in the last 30 years, he has called it "unethical," [68] inefficient, and "a handicap to the development of sound investigational techniques." [69] In 1940, he said: "The discredit and suspicion of the law-enforcing branch which arises from the occasional use of wiretapping more than offsets the good which is likely to come of it."

Of late, however, the Department of Justice and recent Attorneys General have asserted that wiretapping is necessary in internal security cases. At first blush, this argument is indeed appealing, for internal security has become so paramount a value in America today that its mere invocation is often enough to silence defenders of all other values. But a free society does not give its police officers enormous powers without requiring a demonstration from them that such powers are necessary. No such showing has yet been made. No evidence has been submitted of a single case where the FBI's illegal wiretapping was indispensable, or where the lack of wiretapping authority significantly hampered operations. Indeed, will sensible espionage agents ever use the telephone? Of course, there have been many statements and representations that the lack of wiretapping authority is a serious hindrance in this area but no demonstration with examples and analysis has yet been made.

We cannot afford to emulate the police states in giving prosecution and police such penetrating and dangerous powers whenever they merely demand it. A free society

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[54] Quoted in "The Eavesdroppers," 43.

[55] It is also debatable whether a Federal court can grant wiretap orders, because applications for such orders may not come within the definition of "case or controversy" under article III of the Constitution. Such orders are not merely ex parte, but most will never be tested, because they will not produce useful evidence. Thus as Justice Jackson observed, even the power of a Federal court to attempt to limit wiretapping "raises interesting and dubious" constitutional questions. "The Supreme Court and the American System of Government," 12 (1955).

[56] 1961 hearings 483.

[57] Comment, 61 Yale L. J. 1221 (1952).

[58] Cf. *People* v. *Scardaccione*, 245 N.Y.S. 2d 721 (Sup. Ct. Kgs. 1963); see Sobel, op. cit. supra n. 46 at 112–13.

[59] "Matter of Interception of Telephone Communications," 207 Misc. 69, 136 N.Y.S. 2d 612, 613 (Sup. Ct. N.Y. 1955).

[60] See report of the Kings County Grand Jury, summarized in Westin, 52 Columbia Law Review at 195–96; cf. testimony of Prof. Alan Westin, 1961 hearings 206.

[61] Dash testimony, 1961 hearings 104–05. A recent report by a Bronx County Bar Association committee concluded that search warrants were frequently granted on false affidavits. New York Times, Mar. 10, 1965, p. 51. This is even more likely with wiretap applications because of the low probability that they will be challenged.

[62] 1961 hearings 539–575.

[63] 1961 hearings 400.

[64] Report of New Jersey Joint Legislative Committee to Study Wiretapping and Other Unauthorized Recording of Speech, 27 (November 1958), reprinted in hearings 1783–1834.

[65] Hearings before the Senate Judiciary Committee of California (1956) summarized in "The Eavesdroppers," 192–98.

[66] For Judge Oliver's remarks in 1948, see Westin, 52 Columbia Law Review at 195. For Judge Sobel's views see Sobel, op. cit. supra n. 46 at 109–10.

[67] Look magazine, Mar. 28, 1961, p. 25.

[68] Quoted in Westin, 52 Columbia Law Review at 173n. 44.

[69] See Note, 31 New York University Law Review at 213n. 103.

guards its liberties jealously, and permits restrictions only upon a clear demonstration of urgent necessity.

The results of wiretapping where it has been used extensively, are not conclusive or even impressive. Thus, District Attorney Hogan claims that between 1950 and 1959, he obtained some 727 orders (including renewals) for 219 investigations, which probably covered some 1,250 telephones. These orders, according to Hogan, were involved in some 458 arrests and 335 convictions. Kings County statistics show 275 orders, 362 telephones and some 179 convictions during the period 1950 to 1955. New York City Police Department figures show that in 1954, 1,081 telephones were tapped with 395 arrests; in 1963 there were 451 orders with 221 arrests involving 969 people, and in 1964, 671 orders, and 297 arrests involving 1,022 persons. The police department supplied no figures for 1963 or 1964 relating to the number of telephones tapped or the number of convictions obtained.

It is difficult to assess these statistics without data as to (1) the type and quantity of each of the offenses involved; (2) the indispensability of the wiretap evidence to those convictions that were obtained; and (3) with respect to the police department figures, how many of those arrested were found guilty or even charged with a crime. As to the first, the evidence is rather clear that wiretapping is used most extensively in the "morals" area, vice, and bookmaking.[70] Are convictions in this area worth giving the police such dangerous powers, especially since these are the areas of greatest abuse? [71] In New York, for example, gambling and vice are only misdemeanors. And even in these areas, wiretapping does not seem overly effective, according to judges who have issued wiretap orders. Justice Samuel Hofstadter of New York declared that his record of the fruits of wiretapping orders "showed some arrests and fewer convictions and then rarely, if ever, for a heinous offense," [72] and as noted, New York Special Sessions Judge Frank Oliver made similar observations.

Insofar as gambling and vice are generally operations of organized crime, the problem is not that the investigative techniques are inadequate but that the public is indifferent and law enforcement either inept or corrupt. There is no reason to think that the laws against gambling and vice are better enforced in New York, which permits wiretapping, than in Pennsylvania, which does not. Indeed, a recent study in New York, although calling for wiretapping authority, attributed the ineffectiveness of efforts to suppress organized gambling primarily to the "absence of integrated effort" among law enforcement agencies, as well as to lax police work and public indifference.[73] And the same causes can be seen elsewhere.[74]

Insofar as some of the leaders of organized crime have been brought to justice, this has been more through the efforts of Federal law enforcement agencies who claim they do not wiretap in such cases.

As Mr. Justice Frankfurter said, dissenting in *On Lee* v. *United States*:

"Suppose it be true that through 'dirty business' it is easier for prosecutors and police to bring an occasional criminal to heel. It is most uncritical to assume that unless the Government is allowed to practice 'dirty business' crime would become rampant or would go unpunished.

"In the first place, the social phenomena of crime are imbedded in the texture of our society. Equally deep seated are the causes of all that is sordid and ineffective in the administration of our criminal law. These are outcroppings, certainly in considerable part, of modern industrialism and of the prevalent standards of the community, related to the inadequacy in our day of early American methods and machinery for law enforcement and to the small pursuit of scientific inquiry into the causes and treatment of crime.

"Of course we cannot wait on the slow progress of the sociological sciences in illuminating so much that is still dark. Nor should we relax for a moment vigorous enforcement of the criminal law until society, by its advanced civilized nature, will beget an atmosphere and environment in which crime will shrink to relative insignificance. My deepest feeling against giving legal sanction to such 'dirty business' as the record in this case discloses is that it makes for lazy and not alert law enforcement. It puts a premium on force and fraud, not on imagination and enterprise and professional training." [75]

Moreover, one cannot overlook the abuses to which the power to wiretap may be subject. Doctoring of tape recordings is not difficult, as has been demonstrated many times. There have also been many instances of extortion and shakedown based on information obtained by wiretapping, especially in the gambling area where wiretapping is most used.[76] A grand jury investigation in Kings County in 1950 unearthed much corruption, including false supporting affidavits in support of the application for a court order, and vague, conclusory pro forma applications in other instances.[77] Other recent examples of police shakedown and corruption in New York City and elsewhere preclude optimism that city police officers will not abuse this weapon.

While any device or weapon can be abused, the secrecy and scope of the tap makes it especially prone to abuse. The tapper who is at all unscrupulous or weak is severely tempted. The problem is aggravated by the absence of any effective check on how the tapper obtains and uses his information. Thus, if he does pick up blackmail material, he can use it without even revealing how he obtained this material, and there is no way of checking. The person blackmailed will generally want to avoid the publicity attending a private suit or a complaint to the authorities.

IV. A NOTE ON ELECTRONIC EAVESDROPPING

Earlier in this study, it was said that legitimation of wiretapping would be a great symbolic blow to the right of privacy. A reason in addition to those set forth above is that it would set a precedent for electronic eavesdropping and thereby justify such devices as concealed or contact microphones which, placed next to a part of a house such as a room or the plumbing or a heating duct, can pick up every word spoken in the entire house. Parabolic microphones exist which can overhear conversations hundreds of feet away. Such devices have been used by police officers. A forthcoming survey by the Association of the Bar of the City of New York depicts even more startling devices, most of which are designed for and bought by Government agencies.

Recent history shows that the legitimation of wiretapping leads to the legitimation of these other devices, as well. Thus, the New York,[78] Nevada,[79] Massachusetts,[80] and Oregon [81] statutes, originally limited to wiretapping, now permit eavesdropping of all conversations. In 1961 Senator Kenneth Keating, of New York, introduced a bill to permit States to legalize not only wiretapping, but all other types of electronic eavesdropping.[82] Once such eavesdropping is legitimated, the narrowing enclave of privacy which we presently retain will shrink to the vanishing point.

V. RECOMMENDATIONS

In one respect, those who call for wiretapping legislation are right: the present situation is bad. But this is not because the statute is vague and the prosecutor does not know what he may and may not do. Section 605 flatly bans all wiretapping, and it is clearly unlawful for State judges and prosecutory officials to participate in the commission of a Federal crime by procuring wiretap information and admitting it into evidence. Section 605 should therefore be tightened as follows:

1. All evidence obtained directly or indirectly from a wiretap should be rendered inadmissible in any court, to eliminate the spectacle of a court sworn to uphold the laws of the United States participating in the commission of a Federal crime by aiding and abetting the divulgence of illegally obtained and illegally disclosed evidence.

2. The law should be changed to make it perfectly clear that an offense is committed by either interception or divulgence. The statute does in fact say as much now, but within the Department of Justice and other agencies, it has been interpreted to allow interception so long as the information is not divulged outside the agency.

3. A defendant should be permitted to object to the admission in evidence of wiretap evidence even though he is not a party to the conversation, for any persons adversely affected has the right to protest the commission of a Federal offense by a court.[83]

4. Grand juries should be convened periodically to inquire into the enforcement of the law against wiretapping. Because of the record of unauthorized use of wiretapping, the blackmail temptation and other corruption facilitated by this practice, and the ever-increasing growth of new eavesdropping devices, there must be constant review of the electronic eavesdropping problem.

5. A private remedy for unlawful wiretapping should be statutorily established with minimum punitive damages plus counsel fees. If the possibility of financial loss to the wiretapper exists, unlawful wiretapping can be deterred.

6. The various telephone companies should be required to lock all feeder and terminal boxes and to report all instances of wiretapping immediately to the Federal authorities.

In a free society, the end of law enforcement does not justify any and all means.

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[70] See Note, 31 New York University Law Review at 203 (1956); cf. testimony of Assemblyman Savarese, 1961 hearings 465. See Sobel, op. cit. supra n. 46 at 110.

[71] Prof. Alan F. Westin cited gambling, bookmaking and prostitution as areas "where I think wiretapping is least needed and is the greatest attraction to misuse of wiretapping authority." 1961 hearings 206. See also testimony of Bell Telephone System executive W. Coles Hudgins, 1961 hearings 251.

[72] "Matter of Interception of Telephone Communications," 207 Misc. 69, 136 N.Y.S. 2d 612, 613 (Sup. Ct. N.Y. 1955).

[73] Report on syndicated gambling in New York State, 100–110 (1961).

[74] "The Eavesdroppers," 128 (New Orleans), 280 (Nevada); New York Times, Nov. 29, 1961 (Boston, Mass.).

[75] 343 U.S. 747, 760–61 (1952).

[76] "The Eavesdroppers," 52–62, 219, 280; Westin, "Wiretapping: The Quiet Revolution," Commentary, May 1960, p. 337; Westin testimony, 1961 hearings 206.

[77] See Westin, 52 Columbia Law Review at 95–96; see also remarks of Justice Hofstader, 136 N.Y.S. 2d at 618.

[78] Code Criminal Procedure sec. 813-a, 813-b. As noted at n. 38 supra, these provisions were recently held unconstitutional by a lower court in New York City. The decision will undoubtedly be appealed.

[79] Nev. Rev. Stat. 200.660, 200.670 (1959).

[80] Mass. Gen. L. Ann. c. 272, sec. 9 (1959 Supp).

[81] Ore. Rev. Stat. 141, 720 (1959).

[82] S. 1221, 87th Cong., 1st sess. (1961).

[83] *Goldstein* v. *United States*, 316 U.S. 114, 222 (1952) (dissent).

Even if far more convictions could be obtained through the use of such "dirty business" we should not choose to use them. Since the case for wiretapping and other forms of electronic eavesdropping is so weak, and irreparable injury to freedom and security so serious and certain, there is no justification for any such authority.

ESTABLISHMENT OF A DAG HAMMARSKJOLD MEMORIAL REDWOOD GROVE IN CALIFORNIA

Mr. KUCHEL. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of House Concurrent Resolution 305.

The PRESIDING OFFICER. The clerk will read the concurrent resolution.

The legislative clerk read the concurrent resolution, as follows:

Whereas the Dag Hammarskjold International Foundation, the American Association for the United Nations, the State of California Dag Hammarskjold Memorial Grove Committee and numerous cooperating groups including the Save-the-Redwoods League are carrying forward the proposal for a Dag Hammarskjold Memorial Redwood Grove; and

Whereas the life of Dag Hammarskjold was in concordance with the deep and pervading majesty of the redwoods, among which we find spiritual refuge and gain a more profound realization of his own thought that "we each have within us a center of stillness surrounded by silence"; and

Whereas Dag Hammarskjold, until his death on September 17, 1961, served eight years as Secretary-General of the United Nations, carrying on his widely significant and courageous search for world peace; and

Whereas by their very grandeur the giant redwoods imbue us with a stronger realization of human dignity, tolerance, and stateliness so characteristic of Dag Hammarskjold's life: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that it is appropriate to designate a grove of redwood trees as selected by the State of California, as the Dag Hammarskjold Memorial Redwood Grove.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

There being no objection, the Senate proceeded to consider the concurrent resolution (H. Con. Res. 305).

Mr. KUCHEL. Mr. President, the name of Dag Hammarskjold is a most gallant, illustrious, and courageous name, which will live forever in history.

Dag Hammarskjold devoted his life to the pursuit of peace with justice for all mankind. Americans will join the peace-loving nations of the world in recalling the majesty and dignity with which Dag Hammarskjold conducted the business of the United Nations, undaunted by taunts, oblivious to threats, fearless of criticism, heaped upon him by those who sought to weaken and damage, if not indeed to destroy, the "town meeting of the world." He was not, nor could he be, intimidated by those who sought to scuttle peace. Quite literally, Dag Hammarskjold gave his life to the cause that he so devotedly pursued.

It was my great honor to be appointed by the late President of the United States, John Fitzgerald Kennedy, to represent the Republican Party, as a member of an American delegation which flew overseas from this city, and which was led by the then Vice President, now the President of our country, to represent America at the final rites held in Uppsala, Sweden, at which the free nations of the world gave their last, tearful salute to the memory of this gallant man, struck down in the prime of life.

That recollection to me is a poignant one, as I saw the delegations from dozens of free countries, all in their native garb and costume, gathered together in the magnificent Lutheran Cathedral for the state funeral of Dag Hammarskjold.

This resolution indicates it is the sense of Congress that it is appropriate to designate a grove of redwood trees, selected by the State of California, as the Dag Hammarskjold Memorial Redwood Grove.

I believe the resolution represents a fitting indication of the high and never-ending esteem in which the men and women in the legislative branch of our Government, representing the American people, continue to hold the memory of a profoundly dedicated human being who labored unceasingly for the great cause of honorable peace among all nations.

I know that every other Senator will join me in voting for the approval of this resolution.

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

Mr. KUCHEL. I yield.

Mr. CARLSON. I appreciate very much the distinguished Senator from California's offering the resolution honoring a great patriot who served with distinction and honor and, as a matter of fact, gave his life in the interest of peace.

It happened that I was in Stockholm, Sweden, on the very day it was announced that he had been selected Secretary General of the United Nations. I shall never forget the enthusiasm that swept the people and the press stories, to the effect that one who had given so much service would give even greater service to the cause of peace. It was natural for me, having a Swedish background, to be proud of his services. During my service as a delegate, I viewed the plaque in the United Nations commemorating the services and memory of Dag Hammarskjold.

Mr. KUCHEL. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 305) was agreed to.

WHITE HOUSE BRIEFING ON DEVELOPMENTS IN SOUTHEAST ASIA AND THE DOMINICAN REPUBLIC

Mr. MORSE. Mr. President, I ask unanimous consent that I be given the necessary time to read a 2½-page statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MORSE. Mr. President, President Johnson called to the White House this morning for a briefing members of the House and Senate Appropriations Committees, Armed Services Committees, and Foreign Policy Committees. He briefed these Members of Congress with the press present on the most recent developments in southeast Asia and the Dominican Republic.

The President stated that under present law, he is authorized to transfer funds already appropriated in the defense budget to the unexpected financial defense needs of the war in southeast Asia and the U.S. military action in the Dominican Republic, involved in protecting and evacuating Americans and other nationals from that strife-torn country. Nevertheless, he stated that he has decided to ask Congress immediately for an extra $700 million defense budget appropriation for use during the rest of the present fiscal year in southeast Asia and the Dominican Republic.

It was interesting to note that the President made the point that the approval of his request for a supplemental $700 million defense budget appropriation would also entail further approval by Congress of his policies in southeast Asia, as well as approval of what the United States is doing in the Dominican Republic.

As several of my colleagues commented to me after the meeting, there will be those who will make the false assumption that if any Member of Congress votes against the President's request for a $700 million additional appropriation with which to conduct the U.S. war in southeast Asia, he will be accused of not voting to supply American fighting forces in southeast Asia with sufficient funds with which to protect themselves with the necessary weapons for battle. This, of course, is not true, because more than adequate funds now already exist in the defense budget and by the President's own admission can be transferred by him to supply our fighting forces with whatever equipment they need.

I shall vote against the President's request for $700 million to be officially added by the Congress in the defense budget in order to enable the President to continue sending American military personnel to fight in an undeclared war. The President now owes it to the American people, in view of his announced plans at the briefing this morning, to continue U.S. unilateral military action in southeast Asia, to precede his request for additional warmaking funds by sending to the Congress a recommendation that the Congress in keeping with its constitutional powers under article I, section 8 of the Constitution, declare war against North Vietnam.

Neither the President nor the Congress has the constitutional authority to send American Armed Forces to die in battle in an undeclared war. Under the Constitution, the President of the United States has the inherent power as Commander in Chief to take immediate steps to defend the security of the United States against sudden attack, but he does not have the constitutional authority to continue to conduct a war in the name of national self-defense in the absence of a declaration of war by the Congress.

Likewise, the Congress has no authority to delegate by resolution or appropriations its power to declare war to the President of the United States. Article I, section 8 of the Constitution is a vital check written into the Constitution to protect the American people under our system of checks and balances from arbitrary action on the part of both the President and the Congress. It draws a crystal-clear line in respect to warmaking power. It provides the American people with a clear and unambiguous answer in respect to any issue of war with regard to which they, in turn, can exercise upon their elected representatives an ultimate check under our system of representative government: namely, the ballot box.

If, as, and when our Government declares war against North Vietnam or any other power in Asia or elsewhere in the world, as a result of the international crisis that has arisen in Asia involving the growing threat to the peace of the world, I shall then, but not until then, urge a united public opinion support of American involvement in a war in Asia.

In the meantime, I shall continue to urge that the President, the Secretary of State, and our American Ambassador at the United Nations lay before all the nations of the world that signed the United Nations Charter the issues which involve the threat to world peace in Asia. Each signatory to the United Nations Charter, including the United States, is pledged to resort to the procedures of the United Nations in a good-faith attempt to settle on the basis of an honorable peaceful negotiation any conflict that threatens peace.

I strongly endorse President Johnson's repeated pleas for negotiations. However, the time has passed when bilateral negotiations between the United States and North Vietnam or any other combination of combatants in the Asian war can settle the war by bilateral negotiations. A third party force of noncombatants representing the United Nations must sit at the head of such a conference table. Not only our Government but all signatories to the United Nations Charter have an obligation to take the Asian war crisis to the procedures of the United Nations without further delay.

Until the President follows that course of action, in my judgment, he cannot sustain his professing that he is for peace and negotiation. As Commander in Chief and President, until he lives up to the U.S. signature on the United Nations Charter, we cannot show, or we are not showing up to now, that we really believe in carrying out our oft-professed ideal that we want to substitute the rule of law for the jungle law of American military might in southeast Asia, for it is still jungle war when practiced by the United States as well as any other country that resorts to war rather than peaceful procedures when there is a threat against the peace of the world.

THE LITTLE FELLOW—HIS VOTE SHOULD ALSO COUNT

Mr. MUNDT. Mr. President, Lyle C. Wilson, noted columnist and commentator, has recently come out with a most informative and challenging article which all should read and many should ponder. It points out how in this whole issue of voting rights, one of the most serious discriminations and injustices remains untouched by the current voting rights legislation.

Mr. President, Lyle Wilson puts his finger on the taproot cause of most of the bad economic and social legislation now being enacted and the costs of which will plague and handicap many generations of Americans yet unborn. He alludes, of course, to the winner-take-all, bloc system of voting presently employed in our electoral college; a device designed to give some individual voters in America as much as 14 or 15 times the vote authority and individual power in a presidential election as equally intelligent and patriotic citizens living in a different State. More than any literacy test, poll tax, or complicated registration system our electoral college system is rigged to elevate the stature of an individual voter in one State and to downgrade the influence of another voter—it could be his twin brother—in another State solely because of the accident of geographic residence.

THE STATE OF DELAWARE FIGHTS BACK

Delaware is a proud and important little State, Mr. President, and every American should applaud the action by Attorney General David P. Buckson, of Delaware, in the suit he is bringing into Federal court to outlaw this outrageous and iniquitous electoral college counting procedure and to replace it with the one-man, one-vote concept which the U.S. Supreme Court enunciated in the Alabama reapportionment case.

Equality of voting opportunity in the United States of America will remain an illusion and a myth until our electoral college procedures are rectified. I propose we adopt and approve Senate Joint Resolution 12 as the optimum answer to a problem which has for too long plagued and injured America. Until we do that, any voting rights legislation we pass this session will scratch only the surface—it will continue to ignore a major source of discrimination in our voting.

I ask unanimous consent that the Wilson column appear as part of my remarks.

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

THE LITTLE FELLOW

(By Lyle C. Wilson)

There is one road only toward political salvation for the unaffiliated little fellow and his folks who live in a little town or on a family-size farm far removed from the complex centers of urban civilization.

This road leads to amendment of the U.S. Constitution to give the country folk an honest count in the election of a President of the United States or it lies in judicial remedy.

The present system is rigged like a crooked carnival wheel. The system is rigged against rural and smalltown citizens and in favor of the city slickers. These city citizens are organized and affiliated by race, color, religion, and occupation.

Some press for change merely for the sake of change. One result is that political conservatism is being squeezed out of the cities. Political conservatism is becoming concentrated in little rural dikes of opposition to the massive ground swells generated by the pulsating activity of big town pressure groups.

But these are feeble dikes, as demonstrated by national elections over the past 30 years. In terms of music and physical force, the present method of electing a President simply hamstrings the country folk, the conservatives. What to do?

Attorney General David P. Buckson, of Delaware, did it last autumn. Mr. Buckson filed suit in behalf of Delaware against the 45 States which have more than one Representative in the U.S. House of Representatives.

Delaware has but one seat. Mr. Buckson's purpose is to obtain a Supreme Court ruling applying the one-man one-vote principle to the electoral college. Mr. Buckson would outlaw the general ticket system of choosing presidential electors. Under that system all electors run at large. Here is how it worked in one State in 1960 as explained by the American Good Government Society:

"In New York (as in other States with more than one Representative) the citizens of one congressional district could vote for presidential electors corresponding to all other Representatives in the State. Thus, 7 million-odd New Yorkers who voted in the 1960 presidential election elected 43 Representatives in 43 districts with 7 million-odd votes, one apiece. Simultaneously, they elected 43 corresponding presidential electors by general ticket (at large), each of them voting for the whole number rather than for just 1.

"With 42 excess votes each, these New Yorkers cast some 300 million excess votes in that presidential election. If New York's congressional districts are representative of its population, the use of the general ticket for presidential electors is surely unrepresentative."

Mr. Buckson argued that the general ticket system was the sole source of extreme distortion between New Yorkers and Delawareans and added:

"It is extremely unfair and unjust to us."

It is proposed that each congressional district elect one presidential elector and that two in each State be elected at large. The one-man one-vote rule seems to be absolutely controlling.

THE RELATIONSHIP BETWEEN CRIME AND OBSCENE LITERATURE

Mr. MUNDT. Mr. President, the Nation is becoming more and more alert to the threat to our youth, our family life and to public morals which the distribution of pornographic materials presents.

All over the country, groups are organizing to carry on this fight in local communities. They are making headway, without the benefit of adequate laws to assist them in the fight.

The Massachusetts Citizens for Decent Literature Committee is one of the effective organizations which is trying to clean up the newsstands and drive the smut peddlers out of business. Mr. Henry E. Sheridan of that committee has written a very compelling article in which he shows that the traffic in obscene literature is directly tied to the rise in the crime rate among the youth of the country.

As I have done before, I wish to have this material placed in the RECORD for the information of other groups who wish to set up their own action programs

and who seek details on just how they should be operated.

I believe Mr. Sheridan has written a very important disclosure on a very pernicious problem. I commend it to my colleagues and to those who read the RECORD, in the hope that the facts presented here will be useful in the community and civic drives against the purveyors of filth.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

THE RELATIONSHIP BETWEEN CRIME AND OBSCENE LITERATURE

(By Henry E. Sheridan, Massachusetts Citizens for Decent Literature)

Five years ago, in 1960, J. Edgar Hoover in referring to statistics in crimes of sex violence pointed out the deplorable fact that sex crimes and obscene and vulgar literature often go hand in hand. He supplemented this observation with asking some very soul-searching questions: (1) Have local governing authorities investigated to insure that laws against smut salesmen in their communities are strong enough? (2) Is the public outcry of sufficient strength to impress local judges with the need of defending morality by sentencing filth purveyors to maximum terms? (3) Are community and civic groups cooperating with law-enforcement authorities in fighting this debasing blight? (4) Above all, are good citizens teaching their youngsters habits and beliefs which will be as armor against the tainted temptations of muck merchants? These are basic questions asked in 1960; they can well bear repetition today as we survey the onrushing tide of dirty literature which is engulfing every city, town, and hamlet in these United States. These questions cannot go unanswered—they concern the morality and lives of our citizens and most of all, they concern the lives of our most precious possessions, our own sons and daughters. If we fail to provide the answers to these questions, then we as citizens of this Commonwealth are recalcitrant to the obligations of our citizenship and the moral codes that we subscribe to as each in his own way communes with his God. The answers that we provide will have to do not only with this generation, but of generations to come—ours is the responsibility.

Recent figures show that crimes among our youth who have not reached the age of 18 is on the increase. Included in this acceleration is the upward trend of sex offenses and aggravated assaults perpetrated by teenagers.

In 1963 nearly one-fifth of the arrests for forcible rape in this country involved persons under 18 years old. This same age group accounted for over a fifth of the arrests for other sex offenses, such as statutory rape where force is not used. In this latter category arrests of males under 18 rose 4 percent over the previous year, while arrests of girls in the same age bracket increased 7 percent. Arrests of juveniles for aggravated assault jumped 10 percent in 1963 over 1962.

The assertion of recognized authorities should not go unnoticed as we survey this dismal picture, that there is a very definite link between many crimes of sex violence and smut literature. A court judge had this to say as he sentenced a criminal for placing obscene materials into interstate commerce: "The sexual field has a powerful appeal to the youth of our country and I can't help but believe that obscene movies have a great influence on this appeal. The number of criminal assault cases, rapes, and sex crimes has greatly multiplied in the last 15 years and there must be a cause. I believe one of the largest causes is such obscene films as we displayed in this courtroom during this trial. I have never seen anything more reprehensible."

Law enforcement officers can attest to the connection between pornography and youthful crimes of violence, especially rape. A police official in the Southwest has cited several cases including that of a 14-year-old boy who committed immoral acts on preschool aged children after having viewed obscene playing cards. This same officer told of teenagers who had raped young girls after reading dirty literature. Another youth, stimulated by reading an obscene packet, phoned scores of women harassing them with improper suggestions.

Cardinal Spellman, of New York, in 1964 addressing a fraternal group used these words to define indecent literature: "Pornography encourages brutality, violence, injustice, irreverence, disrespect for authority, illicit pleasure seeking, abnormality, degeneracy, and other signs of mental maladjustment."

The newspapers of the Nation in sickening regularity carry accounts of crimes involving youthful offenders, brutality is paramount in these cases. In an eastern city two teenage boys attacked a 10-year-old girl. When she resisted their advances, she was beaten with sadistic violence and then silenced by strangulation with a sash cord. Upon investigation it was found that one of these boys was a confirmed reader of a filthy publication which specialized in vivid, indecent camera illustrations.

In a Midwestern city police arrested a 17-year-old boy answering the description of a young man running away from the scene of a murder. Upon interrogation by investigating officers, he admitted raping three women. He blamed his condition on indecent magazines of which he was a steady reader, saying that after wallowing in their contents that his impulses would become so excited that he would then go out and commit crimes of rape.

Taken from police files on the west coast is the case of a young hitchhiker who was picked up by two men and made subject to horrifying indecencies in their apartment. The police acting upon information supplied by the victim located the two men and a virtual storehouse of obscene photographs, literature, and other pornographic material. In New England, our own area, a public warning was issued against depraved sex offenders who had plied local children with liquor and pornographic material and then plunged them into unspeakable sexual excesses.

The cases which I have cited are only a few instances of the debasing effects of polluted literature. Massachussets Citizens for Decent Literature is attempting to awaken decent citizens into taking constructive steps to control and eliminate this growing problem. We do not subscribe to the defeatist philosophy that because of legalistic complexities that there can be no remedy or solution. We are committed to facing this situation with courage and candor so that we can fully examine this Medusa which is ravaging our communities and poisoning our youth.

MCDL has been born of the experience gained by local groups in combating this problem. Only through organized units working in close conjunction with law agencies can any progress be made. Massachusetts Citizens for Decent Literature feels that the hour is not yet too late to let the billion-dollar overlords of commercialized smut know that Massachusetts citizens will not let their towns and cities become the cesspools of their illicit gains.

The Founding Fathers of our country never intended that any individual or group of individuals under the cloak of constitutional immunity could so pervert our rights so that commercialized immorality, indecency, and debauchery could become the order of the day.

We ask that you join with us in this fight for decency. We ask that you raise your voice in protest, we ask that you do this through concerted organization and most of all, we urge you to tell our lawmakers and enforcement authorities where you stand on this issue.

WEATHERMAN ENDORSES NEVADA'S CLIMATE

Mr. BIBLE. Mr. President, there are many jokes about the weatherman, mostly directed at his inability to provide the right kind of weather. But most will agree, I think, that a weatherman is especially qualified to recognize and appreciate good weather when he sees it. Thus the climate of Nevada received something akin to an authoritative endorsement recently when Mr. Eugene Shepherd announced his retirement after many years as chief meteorologist at the U.S. Weather Bureau in Reno. Mr. Shepard, a well-known and respected member of the Reno community, has observed global weather patterns for decades. He thinks there is no better climate anywhere than in the Reno area. Another veteran Federal employee, Mr. Ivan Sack, supervisor of the Toiyabe National Forest, apparently agrees with Mr. Shepherd. He, too, has elected to live in Reno upon his retirement.

Mr. President, I ask unanimous consent that a news story and editorial published in the Nevada State Journal concerning the retirement of these two outstanding public officials be printed in the RECORD.

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

[From the Nevada State Journal, Mar. 29, 1965]

CHIEF METEOROLOGIST PLANS RETIREMENT

After 36 years of charting and reporting the vagaries of the weather, Eugene Shepherd, chief meteorologist of the U.S. Weather Bureau in Reno, is looking forward to fair weather in his retirement.

About 50 friends and associates gathered last night in the Villa Roma restaurant to salute Shepherd's long career of service.

Among weather bureau associates from throughout the region who came to pay their respect was Hugh Spangler, regional administrative officer, from Salt Lake City.

A native of Indiana, Shepherd spent his early boyhood in southern California and was graduated from San Diego State College.

He joined the Government weather forecasters in Phoenix, Ariz., and was later transferred to San Diego where he remained for 17 years.

Coming to Reno in 1946, Shepherd joined a staff of six other workers who are assigned to the office located at Reno Municipal Airport.

A man who maintains that "weather is not a dry subject," Shepherd has pursued his vocation with a great deal of philosophy. Shepherd has lectured during weather classes at the University of Nevada for a number of years.

Charged with more bad calls than a baseball umpire, weathermen apparently learn to be stoical about the whole thing. "We don't make the weather," Shepherd maintains, "we just report it."

He said that weather forecasting equipment is becoming more sophisticated all the time and, with modern techniques, more accurate.

Shepherd plans to spend his retirement right here in Reno where, in an apparently philosophical mood last night he commented, "I dont know anywhere in the world where there is a better climate."

Shepherd's retirement becomes effective March 31 when, like the proverbial March weather, he expects to "go out like a lamb." His successor as chief of the local office has not yet been appointed.

[From the Nevada State Journal, Apr. 4, 1965]

RETIRING FEDERAL MEN COMPLIMENTARY TO RENO

Reno has received two fine compliments from two Federal men in the last month.

The compliments have been paid not with words, but by deed.

The two local Federal chiefs have recently retired from their posts here and, although they have been residents of Reno for less than 20 years, they have come to regard this area so highly they are remaining here.

That fact, surely, is complimentary to this community, especially since both men have resided, during their lifetime, in numerous areas of the United States.

They are Ivan Sack, until March 1 supervisor of the Toiyabe National Forest; and Eugene Shepherd, until March 31, chief meteorologist of the local U.S. Weather Bureau station.

Sack and Shepherd have an aggregate of 69 years service in the business of handling two of Uncle Sam's important agencies.

In their retirement Reno will gain two private citizens who will continue to contribute their time and talents to this community.

Those talents, incidentally, are considerable and have not been confined in the past merely to doing their jobs.

Shepherd, as a weatherman in Reno since 1946, has been a stalwart in assisting the city, and the Truckee Meadows area generally, at a time when skills such as he possessed were vital to the safety of the community. His assessment of weather conditions when floods were threatened have, in the past, been a major factor in preparing against high water.

Time has meant nothing to Gene Shepherd in any emergency situation that required he remain on the job to lend his valuable assistance to the community. The same, for that matter, may be said of his associates in the Reno weather station.

He has contributed further in imparting his knowledge as a meteorologist, as a lecturer at the University of Nevada.

His "fellow retiree," Ivan Sack, has also given freely of his vast store of knowledge of the great outdoors by lecturing in forestry at the university, and will continue to do so during his retirement.

Forest Service men, traditionally, are among the most highly regarded individuals in the areas in which they live. Perhaps it is their love of nature and their desire to see the plants and animals of the forest and range conserved and perpetuated that imbues in them a spirit that makes them such "right guys."

They are, at one and the same time, rough, tough outdoorsmen and college-trained intellectuals.

It's a tough combination to beat and Ivan Sack qualifies in every respect as a forester, first class.

The caliber of both these men has been obvious in their recognition that they were doing the public's work, and that any information they had that would assist or interest the public was available for the asking.

Shepherd and Sack have long been favorite "news sources" for the press, which is charged with passing on information about the weather daily and the forest lands almost as frequently. In times of flood, fire, big snow, or drought they have taken the time to explain patiently, in layman's language, just what it all meant. They did this, of course, not for the press, but to keep the public informed.

Now they have left the service of Uncle Sam, but have decided that this city will still be home to them. Reno accepts the compliment implied in their decisions—and will probably try to keep them as busy as they have ever been.

COUNTY PLANNING AND RESOURCE DEVELOPMENT

Mr. BIBLE. Mr. President, during the Public Land Management Congress of the National Association of Counties held in Reno, Nev., on March 30–31 and April 1, an outstanding paper entitled "County Planning and Resource Development" was delivered by Mr. Hugh A. Shamberger.

Mr. Shamberger, who in addition to being a close personal friend and longtime associate, is president of the National Reclamation Association and associate director of the Desert Research Institute of the University of Nevada. Until his resignation the first of this year, he served the State of Nevada for many years as State engineer and later as director of the department of conservation and natural resources. His knowledge and experience in the field of natural resources is recognized not only in the West but wherever authorities on land and water meet to discuss these problems.

In view of the importance of Mr. Shamberger's address to all levels of government, I ask unanimous consent that it be printed in the RECORD.

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

COUNTY PLANNING AND RESOURCE DEVELOPMENT

(By Hugh A. Shamberger, president, National Reclamation Association; associate director, Desert Research Institute, University of Nevada, Reno, Nev.)

As a member of the university family, I, too, want to welcome you; and to express my appreciation for the opportunity to speak to you today on a subject that I think is of importance, and one about which the county officials should be concerned.

Having served as a county commissioner for two terms in Ormsby County some 20 years ago, I know something about your responsibilities, and the dedication you give to your work. In many ways I always felt that our counties should be the most important level of government.

NEVADA ASSOCIATION OF COUNTY COMMISSIONERS

During my term as county commissioner I helped organize the Nevada Association of County Commissioners. It was about this time that your association got well under way. I have followed your activities over the years, and I want to compliment you on what you have been doing to inform all of the county officials throughout the United States on matters of national interest and to enable them to do a better job in county government.

Perhaps my remarks here to you today will be a repetition of what has already been brought to your attention by this association, but nevertheless, I think it is of such importance that it warrants frequent repetition.

During 36 years in the State of Nevada, my work has been primarily in the field of water administration. However, for the past several years, in addition to our water resources, I have been directly concerned with other resources of our State, mainly our State parks, our State lands, and our State forests.

And now since January, when I joined the staff of the Desert Research Institute here at the University of Nevada, I am concerned with water research. Over these many years I have worked very closely with Federal agencies. It has been my experience that the Federal agencies welcome State participation in all activities pertaining to the utilization of our natural resources. I have also found that when the State holds back and doesn't make any effort to participate, the Federal agencies generally go ahead and do those things that are necessary, without the direct participation of the State agencies. Often then, though we condemn the Federal agencies for trying to run the State's business, in many cases, the States themselves are at fault and we have no one to blame but ourselves. In some instances, I have found that the Federal agencies were happy to play second fiddle, when the State agencies are willing to take the leadership in some of these projects that pertain to our natural resources.

BRIDGING THE GAP

Let me tell you a couple of things that we have done in Nevada that seem to have bridged this gap between Federal and State participation.

Some years ago, the State engineer formed what we termed the Nevada Water Conference. To these annual conferences, we invite all of the State and Federal agencies in any way concerned with the land, water, forests, and other of our natural resources. Each agency is given an opportunity to describe briefly its activities during the past year, and its plans for the coming year. In addition, we always have a number of papers by experts in the field of water, land, and so forth. This water conference has been going on for 18 years, and it has done a great deal to coordinate the activities within the State. We know the people in the Federal agencies much better than we would have otherwise, and they know us better. This has brought about a good relationship.

GOVERNOR'S NATURAL RESOURCES COUNCIL

A few years ago, we organized what we called the Governor's Natural Resources Council. This is made up of some 13 State agencies concerned with our natural resources, together with 5 Federal agencies. Meetings are held quarterly and we have found this to be a great help in developing programs, both Federal and State.

Now I have spoken about Federal-State relationship. I think a similar relationship should be encouraged between the counties and the State. Naturally, there is contact between the counties and the State, but not nearly enough. In most instances, the counties wait for the State to come in, whereas it is my opinion that in many cases, the impetus should be at the county level.

I think it is obvious that understanding and coordination are basic requirements for successful resource development programs. The many needs of the American people, as related to the resources we enjoy, must be carefully coordinated by the Federal Government, by the States and by the counties and cities, and by an informed public. Then sound decisions can be made on how we can make optimum use of our natural resources.

GREAT ERA OF PLANNING

We are in a great era of planning. Certainly one principle is of basic importance in achieving the best use of our natural resources. Wherever possible we must think in terms of multiple-purpose development of our land, water, and other resources. If

multiple-use planning can be accomplished, our land and water resources can be used effectively for a variety of purposes. I think, too, that to be successful, comprehensive planning must be a continuous process, not simply a single effort, or an isolated concentrated study. Government, both Federal and State, doesn't escape its responsibilities by turning over the planning process to consultants and professional planners.

Planning entails knowledge of the natural, human, economic, and social resources; evaluation of needs and goals; selection of a method to meet these needs; and a continuing reassessment of the resources, needs, and methods to adjust the plan to the ever-changing community. This planning must be done by people who care about the area involved.

COUNTIES SHOULD HELP FORM RESOURCE DEVELOPMENT PLANS

This leads me to the conclusion that the counties should take an active part along with the State and Federal agencies in forming our resource development plans. This means planning not only for recreation, or water development, but everything that concerns our natural resources.

People should be the benefactors of resource management programs, and thus should receive the major consideration in the development of such programs. The economic requirements of our people should be the fundamental criterion in our resource management decisions. The conflicts that arise are usually manmade, and result from misunderstanding, mistrust, and poor cooperation, rather than from any inherent difference between economic requirements and good resource management programs.

Certainly the situation here in Nevada has been greatly improved during the last decade, by the means I have described. I have heard it said that "when people can talk together they seldom stay apart." I think this is very true. However, coordination will never be effective until it is carried out at the local level. To obtain this proper coordination between Government, State, and county agencies requires that each should be familiar with the resource programs of the others. Then, too, officials must know which facets of resource planning programs can and should be carried out locally.

The last Congress will probably be best remembered for the conservation measures that were enacted into law. I want to mention only a few:

WATER RESOURCES RESEARCH ACT OF 1964

This act (Public Law 88–379) will support water research centers in all of the land-grant colleges and universities in the United States. It provides for allotments in the sum of $75,000 for the first year, $87,500 for the second and third years, and $100,000 for each year thereafter to each of the land-grant colleges to assist each participating State in establishing and carrying on the work of a competent and qualified water resources research center. It further provides matching grants for each land-grant college and also matching grants and allotments to other universities, other than land-grant colleges.

This act is essentially a copy of the Hatch Act of 1887, as amended, which brought about the establishment of the agricultural research stations at land-grant colleges and State universities. It proposes to duplicate in the water resources field what has been so successful in agriculture—with the establishment of water research centers.

The introduction of this legislation in Congress was the result of a recommendation of the Senate Select Committee on National Resources that was set up during the 86th Congress (1959). The committee found that by 1980 the U.S. water withdrawals would double those of 1954, and by the year 2000 the withdrawals would triple. It found that in 5 of the 22 water resources regions of the United States, full development of all available water resources would be required by 1980, if projected increases in population and economic activities are to be achieved. These regions were the south Pacific, Colorado River, Great Basin, upper Rio Grande and Pecos Rivers, and upper Missouri River.

The committee pointed out that these findings should not be construed as placing a ceiling upon the growth of population and economic activity in water-short regions. The technical, legal, financial and political problems involved in meeting future water needs in these regions are considerable; but the public interest demands their solution.

The committee studies indicate that the means for solving these problems are certainly available: that if bold programs for construction of storage reservoirs, reclamation projects, flood control facilities, and other works now conceived by the agencies involved are carried out, and if new techniques for desalting, evaporation control and waste disposal, together with advances in the weather modification program, are applied, water adequate both in quality and quantity will be available.

The committee further stated that the first and most important step toward getting the job done is the development of increased public awareness and understanding of the Nation's water resource problems, their effect on the country's economy, and possible solutions.

One of the committee's recommendations was to improve water research programs where there are deficiencies in our knowledge, and to strengthen substantially the contribution that the universities can make to research and graduate education in water resources.

Here at the University of Nevada it is my job, as associate director of the Desert Research Institute, to head the Center for Water Resources Research. We will attempt to develop water research programs that will be beneficial to an arid State such as Nevada, and which will assist in bringing about a better use of our water resources.

It will be our aim to make sure that the county officials and other interested persons are well acquainted with these research studies as they are carried forward. In this way the people will be made more aware of the critical nature of some of our water resource problems, and thereby will better understand them.

LAND AND WATER CONSERVATION FUND ACT OF 1964

I am sure that you are well acquainted with this new act (Public Law 88–578) and its importance to one of our fastest growing industries—recreation. When I was director of the Nevada Department of Conservation and Natural Resources, Governor Sawyer designated me to be the liaison between the State and the Federal Bureau of Outdoor Recreation. I became well acquainted with this program.

Under this act, matching funds will be available to provide outdoor recreation areas and facilities at State, local, and Federal levels. Such funds may be used to acquire, plan, and develop such areas.

I think you are familiar with the fact that this program extends through the State to the counties and cities for the development of recreation areas. And that before Federal matching funds will be available, the State must develop a 5-year master plan which will include the programs of State, counties, and cities as well as the programs of the Federal agencies.

INTERAGENCY COMMITTEE

Here in Nevada, in order to bring about a coordinated program, two very important committees were established. One was an interagency committee on outdoor recreation, composed of representatives of all Federal and State agencies, as well as representatives of the counties and cities that were concerned with parks and recreation. This committee can do much to assist the State planners in preparing a sound State master plan.

CITIZENS COMMITTEE FOR OUTDOOR RECREATION

The other committee was called the Citizens Committee on Outdoor Recreation and has statewide representation from organizations interested in the development of our park and recreation program. This committee gives these interested citizens in such organizations an opportunity to participate and be heard, and at the same time to become acquainted with the overall program.

I will not dwell on the Public Land Law Review Commission (Public Law 88–606); the Multiple-Use Act (Public Law 88–607); nor the Public Sale Act (Public Law 88–608), as I know they will be discussed during other sessions of this conference.

As Secretary Udall has stated, these acts will "bring our horse and buggy land laws into line with the jet-age facts of life."

STATE COMMITTEE ON FEDERAL LAND LAWS

In order for the people of Nevada to become familiar with the operation under these acts, and be able to properly give intelligent advice to the Public Land Law Review Commission, our State legislature has just passed an act that will allow our Governor to appoint a State committee on Federal land laws. The committee will be composed of representatives of banks and saving and loan associations; city and county governments; industrial management; labor; State board of fish and game commission; mining; agriculture and livestock raising; education; recreation and conservation; railroads and the general public.

This act will be administered by the department of conservation and natural resources, and moneys will be appropriated for a staff.

In conclusion, let me say that when we talk about the development and management of our natural resources, we are in reality talking about land, water, and people.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Subcommittee on Internal Security of the Committee on the Judiciary be authorized to meet during the session of the Senate today.

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

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

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

INCOME TAX RELIEF TO AMERICAN MILITARY PERSONNEL SERVING IN VIETNAM

Mr. McCLELLAN. Mr. President, it has been my privilege to represent the people of Arkansas in the Congress for more than 26 years. I still find that the most rewarding aspect of this high office is the opportunity to render meaningful service to my constituents as well as to Americans all across the Nation.

A recent instance, which to me was most gratifying, was the President's announcement that income tax relief would be granted to American military personnel serving in the Vietnam theater of operations.

In an article by Jim Lucas in the March 16 Washington Daily News, it was pointed out that this tax relief had not yet been extended to our men in Vietnam. The article noted that Capt. F. R. Kendrick, a helicopter pilot from El Dorado, Ark., who may become the most decorated man in Vietnam, was seeking to have this relief made available to our men in Vietnam.

After looking into the situation, I immediately concluded that Vietnam came well within the precedent established in Korea where this favorable tax treatment was accorded to our servicemen. The hardships endured by our men in Vietnam are indistinguishable from those endured in Korea. Military combat is war, and no matter what we may call it, the action is no less hazardous and the bullets no less deadly even when we are engaged in an undeclared war as is the one now in progress in Vietnam.

On March 29 I directed a letter to the President urging him to exercise the discretion which he is given under section 112 of the Internal Revenue Code to designate Vietnam as a combat zone. I also spoke on the floor of the Senate to urge that Vietnam be designated as a combat zone under the Internal Revenue Code.

The President responded within a few short weeks with an Executive order retroactive to January 1, 1964, exempting enlisted personnel from all Federal income tax on pay received during assignment in South Vietnam or during service on naval vessels within 100 miles of the Vietnamese coast.

Commissioned officers may exempt from taxation $200 per month of their service pay while on such assignments.

It is estimated that the exemptions will apply to approximately 32,000 Army, Air Force, and Marine Corps personnel in South Vietnam and several thousand Navy and Marine personnel aboard naval ships.

Mr. President, I was most pleased to have participated in this small expression of gratitude by a nation which owes much to the men who serve us so well in Vietnam today. It is one way by which all of us at home can recognize the good job our troops are performing—and the sacrifices they are making—in behalf of freemen everywhere.

Mr. President, I ask unanimous consent that a copy of my letter to the President, proposing this action, and a copy of the Executive order granting tax relief for military personnel in Vietnam be printed at this point in the RECORD.

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

MARCH 29, 1965.

Hon. LYNDON B. JOHNSON,
The President,
The White House, Washington, D.C.

MY DEAR MR. PRESIDENT: You will recall that Congress provided in the Internal Revenue Act of 1954 for excluding from gross income certain pay received by members of our military forces while serving in a combat zone (26 U.S.C. sec. 112). Congress further provided that this section would become operative only upon designation of an area as a combat zone by the President of the United States.

As you know, such treatment was accorded our men who served in Korea, and it would seem equally appropriate to have similar benefits extended to those serving in Vietnam. The situation in Vietnam appears to come well within the precedent established in Korea, and most certainly the hardships endured by our men are indistinguishable.

I am aware that sensitive foreign policy questions are raised when an area is designated as a combat zone. It would seem to me, however, that we have a fundamental obligation to treat our servicemen in Vietnam with as much fairness as that extended to the men who served this country in Korea.

My attention was drawn to this matter by an article by Jim Lucas in the March 16 Washington Daily News about Capt. F. R. Kendrick, of Arkansas, who is seeking to have this tax relief made available to our men in Vietnam. The article notes that Captain Kendrick, a helicopter pilot, has been decorated three times by the Vietnamese and once by the United States.

With highest personal regards, I am

Respectfully yours,

JOHN L. McCLELLAN.

PRESIDENTIAL DOCUMENTS

TITLE 3—THE PRESIDENT

Executive Order No. 11216: Designation of Vietnam and waters adjacent thereto as a combat zone for the purposes of section 112 of the Internal Revenue Code of 1954

Pursuant to the authority vested in me by section 112 of the Internal Revenue Code of 1954, I hereby designate, for the purposes of that section, as an area in which Armed Forces of the United States are and have been engaged in combat:

Vietnam, including the waters adjacent thereto within the following-described limits: From a point on the East Coast of Vietnam at the juncture of Vietnam with China southeastward to 21° N. Lat., 108° 15′ E. Long.; thence southward to 18° N. Lat., 108° 15′ E. Long.; thence southeastward to 17° 30′ N. Lat., 111° E. Long.; thence southward to 11° N. Lat., 111° E. Long.; thece southwestward to 7° N. Lat., 105° E. Long.; thence westward to 7° N. Lat., 103° E. Long.; thence northward to 9° 30′ N. Lat., 103° E. Long.; thence northeastward to 10° 15′ N. Lat., 104° 27′ E. Long.; thence northward to a point on the West Coast of Vietnam at the juncture of Vietnam with Cambodia.

The date of the commencing of combatant activities in such area is hereby designated as January 1, 1964.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *April 24, 1965.*

[F.R. Doc. 65-4490; filed, Apr. 26, 1965; 3:11 p.m.]

THE SITUATION IN THE DOMINICAN REPUBLIC

Mr. LAUSCHE. Mr. President, we cannot suffer the existence of another Cuba at our shores in the Caribbean. The mistake that was made about Castro must not and should not be repeated. In 1956, the American public was mislead into believing that Castro was a Robin Hood taking from the rich and giving to the poor. We allowed Castro to be given the image of a friend of the United States of America. In 1944, the public was also deceived by being made to believe that the interference with Chiang Kai-shek's government in China was a revolt of the oppressed "peasant" wanting to be liberated from an oppressive and exploiting government.

Now it is argued that in Santo Domingo those seeking the overthrow of the existing government are friendly non-Communists desirous only of improving the welfare of the people. The overwhelming evidences are that the Communists have taken hold. Idly standing by while Castroism is being expanded would in the end require the paying of a costly, painful price.

The President, in my opinion, is right in what he is doing. He is acting in the long-range interest of the security of our country. To follow a different course in regard to the situation in the Dominican Republic would be equal to a collaboration by our Government in the expansion of communism in the Western Hemisphere. The Dominican Republic is practically at our southern shores. To suffer another Castro government at our very shores is unthinkable and cannot and should not become a reality.

A FAIR APPRAISAL OF THE STATE DEPARTMENT

Mr. CHURCH. Mr. President, in this country there is too much tendency to blame the State Department for most of our oversea trouble. This is most unfortunate, especially since our State Department is largely composed of highly competent and dedicated public servants. America would still have many foreign problems, even if the State Department were the best organized body in the world, and even if every American official were a foreign-policy genius.

John M. Hightower, of the Associated Press, is certainly one of the best newsmen covering the State Department. Recently, he wrote an excellent article describing the working of our State Department. As Mr. Hightower has correctly commented:

However comforting the far perspective may be, the State Department wrestles daily with the other view—a world of troubles. One of the most surprising facts about it is,

not that it makes mistakes or agonizes over divided counsels, but that it works at all.

I ask unanimous consent that this article, as published in the April 25 issue of the Lewiston (Idaho) Morning Tribune, be printed at this point in the RECORD.

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

[From the Lewiston (Idaho) Morning Tribune, Apr. 25, 1965]

WRESTLING WITH A WORLD OF TROUBLES IS STATE DEPARTMENT'S DAILY ROUTINE

(By John M. Hightower, AP special correspondent)

WASHINGTON.—The State Department's long range planning master, Walter Rostow, published a hopeful book about international relations last year under the title "The View From the Seventh Floor."

The seventh floor is where Dean Rusk and other executives of the foreign policy factory have their offices.

The view, as reported by Policy Planning Director Rostow, is not too bad when focused on the distant goals of peace, international order and higher living standards over the world.

Another view from the seventh floor is more squint eyed, less optimistic. In the short range it focuses on burning libraries, ink splattered embassies, war in southeast Asia, crises in the Middle East, quarrels with and among the Communists and a stack of other unsolved and presently insoluble problems.

However comforting the far perspective may be, the State Department wrestles daily with the other view—a world of troubles. One of the most surprising facts about it is not that it makes mistakes or agonizes over divided counsels but that it works at all.

FOCUS ON QUARRELS

On the home front it is accountable to 193 million Americans, who constantly disagree about foreign policy. Abroad it deals with 113 foreign countries which frequently quarrel with each other and the United States. If the country scores a military victory the credit is likely to go to the Defense Department. If it scores a diplomatic victory, the credit is likely to go to the White House.

Since the end of World War II no one has ever figured out a broadly acceptable way even to organize the State Department. For instance, during the last 20 years control of the foreign aid program, the foreign information program and disarmament policy has been periodically put into and removed from the Department.

If this suggests a certain confusion over the best way to handle the Nation's foreign relations, it also suggests that the world with which the State Department must deal 24 hours a day is in a confusing state that constantly threatens to become worse rather than better.

It is no longer so simple as it was, for example, when all major power was divided between Moscow and Washington.

Today the Communist bloc is split into two big chunks and several fragments and the Atlantic Alliance is hardly less divided. France is pursuing independent policies that have all but destroyed the old trans-Atlantic dream of a united Europe and United States applying their energies for the same goals of trade, peace and growing world unity.

In the last 20 years also the State Department has had seven secretaries under four Presidents and each one has had quite different ideas about how to run the place.

BYRNES BLOCKED MOVE

In 1946 James F. Byrnes blocked a plan to move the Department from its ancient home inside the White House to a more modern and spacious building six blocks away in Washington's Foggy Bottom. In 1947, George Marshall ordered the move as one of his first acts after taking over the State Department.

Six years later John Foster Dulles, entering the Eisenhower Cabinet, wanted to move his own office back to Pennsylvania Avenue, next door to the President, not by transplanting the whole Department but by separating its head—himself—from its body. He was talked out of this with great difficulty.

Dean Rusk, coming into office with President John F. Kennedy, promised to break the pattern of almost constant travel set by Dulles and Dean Acheson. He said the chief U.S. foreign policymaker should stay home more and think. But in a few months he was flying faster and farther than any of his predecessors.

Rusk has delegated great authority to his assistant secretaries and has seen radical changes in the way the Department operates during his own 4 years there.

In his first year he found that President Kennedy often ran foreign policy from his White House office on specific issues as the Congo, perhaps, or Cuba or southeast Asia. President Johnson has reversed all that. He operates through Rusk or, in his absence, through Under Secretary of State George Ball.

PRESIDENT OFTEN STEPS IN

The vastly different Rusk relationship with Johnson and with Kennedy illustrate a point which even the careful analysts of the State Department's history and operation sometimes forget. This is that while the Secretary of State is the head of the State Department on the Government's organization charts the President is, or at any given moment may choose to be, the head of the State Department in fact—just as he may choose to be in direct control of any other agency in the Government. This means that when a President with intense interest in foreign affairs—such as John F. Kennedy—takes over the Government the operation of any of the great agencies changes radically from what it had been before.

In President Harry S. Truman's day, by contrast, the State Department was run by a succession of very strong Secretaries to whom Truman delegated great authority so that their recommendations amounted to decisions. That was also essentially the relationship between Dulles and President Dwight D. Eisenhower. President Johnson, while operating in ways quite different from those of President Kennedy, still has not delegated authority to Rusk to the extent that Truman and Eisenhower did, and Rusk, being a more retiring and less aggressive man than some of his predecessors, has not reached out for more power.

The most striking characteristic of the State Department in modern times is the enormous expansion it has undergone, paralleling the increasingly active role the United States has taken in world affairs since the end of World War II. In 1945, the last year of the war, the total of State Department employees stood at 9,830. In 1965 the total is 23,327. During that score of years the United States more than doubled the number of countries with which it has diplomatic relations. The withdrawal of the great European empires from Asia and Africa has brought more than 50 new countries into the world since World War II ended.

BUSY NERVE CENTER

The State Department is the nerve center for a communications system extending all over the world. Its own system, furthermore, is supplemented by the constant flow of news dispatches into Washington and also by information which comes through military channels, and that which is obtained from intelligence sources. By its own communications measure it is an extremely busy place, exchanging 10,000 cables, letters and other reports and messages every day with overseas posts. Its budget, which was once well below $100 million, is now approaching $400 million.

Three great organizational changes have been made and developed over the years since the Truman administration to provide a better projection and control of policy. One is the policy planning staff now headed by Rostow, who has an Ivy League academic background and is internationally recognized as an authority on all kinds of policy problems, both political and economic. The first policy planning chief was Ambassador George Kennan, who formulated the policy of containment of Soviet expansion back when the cold war was just beginning.

The second organization which has contributed greatly to the State Department's efficient operation is a secretarial staff, or secretariat, serving the Secretary of State and charged essentially with the task of keeping the flood of papers moving through the decision-making process at the fastest possible speed. This organization also goes back to the Truman administration, having been introduced by George Marshall as a result of his military experiences with staff organization.

At the top of the policy making structure, with the President himself as the Chairman, stands the National Security Council. This too, was set up in the Truman administration, with the purpose of coordinating the planning and decision making of the White House, State, and Defense Departments.

One of the popular concepts of the State Department operation is that foreign policy is made in orderly fashion, progressing from the idea stage by logical degrees to the point of decision. This does happen, but not very often, at least on the big questions.

IN PRAISE OF THE VICE PRESIDENT

Mr. CHURCH. Mr. President, HUBERT H. HUMPHREY is one of the hardest-working and most talented Vice Presidents in the history of the United States. He has been a splendid teammate for Lyndon Johnson during the first 100 days of heroic legislative achievements which have marked this first full term. The Vice President's distinguished service has proved that President Johnson made a very wise choice in selecting his running mate last August.

Edward T. Folliard has written an excellent account of HUBERT H. HUMPHREY'S first 100 days as Vice President. I ask unanimous consent that this article, which was published in the May 2 issue of the Washington Post, be printed at this point in the RECORD.

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

AS NO. 2, HE HAS TO TRY HARDER—100 DAYS AFTER TAKING OFFICE VICE PRESIDENT STILL CAN'T PAUSE TO SMELL FLOWERS

(By Edward T. Folliard, Washington Post staff writer)

After 100 days in office, Vice President HUBERT H. HUMPHREY stands out as the

hardest-working Vice President in American history. His whirlwind pace would astonish earlier Vice Presidents who said that the job was "insignificant" (John Adams), "honorable and easy" (Thomas Jefferson) and "a bore" (Theodore Roosevelt).

Some of Vice President HUMPHREY'S admirers believe that he may be working too hard.

He gets up at his home in Chevy Chase at 7:30 a.m. and usually starts his official day with telephone calls. Then he climbs into his limousine and, accompanied by a Secret Service agent, rides from the Maryland suburb to his office in Washington.

"I read all the way downtown, work on my papers," he has said. "I've learned how to use every single minute of the day, every minute."

That gives some idea of the man's zeal, and it also raises a question.

Wouldn't it be better for the Vice President—and the Republic—if he slowed down his limousine, forgot his papers for a while and looked at the flowers that are blooming all over Greater Washington in this spring of 1965?

Undoubtedly it would be, and better still if he got out of his limousine and sniffed the violets.

"The trouble with me," says the Vice President, alluding to the rent-a-car advertisement, "is that I'm only No. 2. I have to try harder."

A SENATORIAL DOSSIER

HUMPHREY is one of those extraordinary men who can go full speed and yet come up with worthwhile ideas. It is sometimes forgotten, but it was the then Senator HUMPHREY who introduced bills to create the Arms Control and Disarmament Agency, a Youth Conservation Corps (now Job Corps), and the Peace Corps. And that was back in the Eisenhower administration.

To say that Vice President HUMPHREY is the hardest working man ever to hold the No. 2 office is not such a sweeping statement as it may sound. For 160 years of our national history, it was not expected that a Vice President would do much more than preside over the Senate, as required by the Constitution.

In the infancy of the Republic, John Adams' disdain for the Vice-Presidency and his love of fancy titles were so well known that a Senator quipped that Adams ought to be called "His Superfluous Excellency." And as recently as the 1940's, President Franklin D. Roosevelt kept Vice President Harry S. Truman in the dark about the atomic bomb.

President Truman himself was without a Vice President for 3 years and 10 months, but when he got one—Alben Barkley, of Kentucky, his running mate in the 1948 election—he made sure that the No. 2 man was more than a fifth wheel. He had Vice President Barkley sit in at Cabinet meetings and also at meetings of the National Security Council. No secrets were withheld from the Kentuckian.

A CUMULATIVE CHORE

President Eisenhower continued this practice with Vice President Richard M. Nixon, although the two men did not know each other very well at the outset; and President Kennedy went even further in the case of Vice President Johnson, giving him such added duties as the chairmanship of the National Aeronautics and Space Council.

Now President Johnson has carried the team idea still further with Vice President HUMPHREY, piling a large number of new chores on him. He has, for example, given him a leading role in the war on poverty, assigned him to the "See the U.S.A." program, made him chairman of the President's Council on Equal Opportunity, the civil rights coordinating body, and given him a liaison role with the mayors of the country.

Humphrey has offices in the old State, War, and Navy Building as well as in the Capitol and the Senate Office Building. He feels romantic about the suite across from the White House because it was used by Franklin D. Roosevelt when F.D.R. was Assistant Secretary of the Navy in the Wilson administration.

ENJOYS THE GAVEL

The Vice President likes to open the sessions of the Senate—a duty that most of his predecessors have slighted—and then go to his ornate office off the Senate chamber. There he talks to Senators and Congressmen, and sometime their constituents.

There are times, however, when his base of operations will be the old Roosevelt suite across from the White House. Thus he began his day there Wednesday at 9:30 a.m., conferring with Eric Wyndham-White, secretary of GAAT, the international organization for tariffs and trade. At 12:30 p.m., he went over to the White House for the swearing in of new officials of the Central Intelligence Agency.

Somehow he managed to get some lunch, and then was dashing out to dedicate the new Veterans' Administration Hospital near Soldiers' Home. At 4 p.m. he went to Decatur House to talk to 55 Negro businessmen, and then returned to the White House for a meeting of legislative liaison men from the various departments and agencies.

Then he was off to a party in honor of Representative BARRATT O'HARA of Illinois at the Congressional Hotel. Next he dropped in at a meeting of the National Education Association, and he ended the day speaking at a dinner of the Millers Federation at the Shoreham.

The Vice President flew to Florida for a vacation Easter week, but he cut it short to attend the funeral of Senator Olin Johnston, of South Carolina, at Spartanburg. Next day he flew to New York to open the New York World's Fair.

He travels in a Jet-Star assigned to him by the Air Force. So far his traveling has been limited to the United States, but it is expected that President Johnson will assign him to some good will trips overseas.

HUMPHREY'S burden would overwhelm many men of 54, but this one revels in work. In a television interview with Tom Wicker, chief of the Washington bureau of the New York Times, HUMPHREY said:

"If you learn how to use your time, you can get an awful lot done—and besides that, I have fun. If you can't have a little fun at it, you ought to quit."

It remains only to be said that the office of Vice President was once so looked down upon that an argument broke out in the First Congress over how much the Vice President was to be paid. A salary of $5,000 a year was finally approved, but some House Members objected and said that he ought to be paid by the day—and then only for the days he worked.

Vice President HUMPHREY gets $43,000 a year, plus $10,000 for expenses, and he earns it.

CRITICAL NEED FOR GI BILL NOW

Mr. YARBOROUGH. Mr. President, the recent announcement, from the White House, that American troops are landing in strife torn Santo Domingo, provides us with one more startling example of the ever-present pressure and the constant demand placed upon the men and women of dedication and courage who serve in the U.S. Armed Forces in these times of cold war turmoil and political unrest. When we are told that more than 14,000 young Americans are risking their very lives, so that political order can be restored in one of our sister republics of this hemisphere, it becomes readily apparent that the life and times of the American fighting man of today constitute a personal burden and a patriotic sacrifice, just as was the valiant and heroic service of the American fighting man of World War II and of the Korean conflict.

If our young men and women of 1965 can offer their time, their energy, their futures, and their lives in the battle for the same freedom and the same ideals for which prior generations fought, why should they not, in the name of justice and fairplay, be offered the same opportunities for education and economic success by the people for whom they fight? The battle against the sinister encroachment of communism and the labors for the victory of freedom and self-determination of nations go on in every part of the globe this day. Skirmishes in Santo Domingo, pressure in Berlin, threats from Cuba, battle in Vietnam, and the rigor of preparation here at home each argue irrefutably that bravery, sacrifice, and dedicated service cannot be limited to activity in a single nation, a small geographical section, or even an entire continent. To the contrary, these instances of service and sacrifice serve to establish the patent fact that dedication and sacrifice in our American Armed Forces are general, not limited; that they are the rule, not the exception.

Enactment of the cold war GI bill during this session of Congress will offer to our heroic cold war veterans nothing more than what was offered to the brave men and women of prior conflicts—an opportunity to become intellectual and cultural assets in their communities. The cold war GI bill applies to all personnel who served for more than 6 months on active duty. It does not place a geographical limitation on bravery, dedicated service, and patriotism. Let us now resolve to grant a long overdue measure of justice and equity to America's cold war veterans—the men and women who remained ever alert and ready in the face of past crises, and who now man freedom's watch in Santo Domingo and throughout the free world.

Mr. President, let us grant these worthy Americans the unparalleled opportunity to gain useful education, and thus "make the hero and the man complete."

NEW BOOKS ON VIETNAM

Mr. CHURCH. Mr. President, two books which have been published recently cast much light on the situation in Vietnam. I refer to David Halberstam's "The Making of a Quagmire" and Malcolm W. Browne's "The New Face of War." Mr. Halberstam was a correspondent for the New York Times, and Mr. Browne is still a correspondent for the Associated Press in South Vietnam. Last year, both of them won the Pulitzer Prize for their fine work in reporting the news from that country.

Two reviews of these books have come to my attention. One review was written by Richard Dudman, the distinguished correspondent of the St. Louis Post-

Dispatch, who specializes in Vietnamese affairs. The other review, which was published in the May 2 issue of Book Week, was written by John Paton Davies, Jr., a former United States Foreign Service officer and author. I ask unanimous consent that these two reviews be printed at this point in the RECORD.

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

[From the Washington Post, Apr. 29, 1965]

VIETNAM VETERANS ASSESS U.S. IN WRONG KIND OF WAR

(Reviewed by Richard Dudman)

(Mr. Dudman has just returned from 7 weeks of covering the war in Vietnam for the St. Louis Post-Dispatch.)

("The New Face of War," by Malcolm W. Browne; Bobbs-Merrill, 284 pp. $5.)

("The Making of a Quagmire," by David Halberstam; Random House, 323 pp. $5.95.)

One day at a press briefing in Saigon, a high-ranking American officer contradicted Malcolm Browne on some point about the war. The officer said that American military experience in Vietnam proved that the Associated Press correspondent was wrong. Browne's retort was: "I have been here longer than any American military man."

He and David Halberstam of the New York Times, a handful of other resident correspondents, plus a larger group of reporters who arrived from time to time on temporary assignment, watched and reported the gradual loss of the war under the regime of President Ngo Dinh Diem, the phony strategic hamlet program that was supposed to pacify the country, the fake victories that left the Vietcong guerrillas free to expand their control of the countryside, the false reports to Washington that all would be well and that the war was being won.

Their accurate reporting helped puncture the official line of "cautious optimism" and won them a shared Pulitzer Prize last spring.

Browne is still in Vietnam, now in his fifth year of reporting the war. Halberstam, in Vietnam from mid-1962 through 1963, has been transferred to Warsaw.

These are journalistic books, light on historical and political background and heavy on anecdote and factual detail about the war and the men who are fighting it (or in some cases not fighting it). Both were completed before the United States began bombing North Vietnam in February. Halberstam, anticipating the raids, suggests that they, too, will fail.

Browne's book, the cooler and more analytical of the two, begins with much factual information contrasting the expensive gadgetry of the American effort with the make-shift effectiveness of the Vietcong with their expert use of ambush techniques and their close and constant efforts to win support of the peasants.

He tells of an American Negro on "civic action" assignment who visited a hamlet and asked sympathetic questions and arranged to kill the rats, dig some wells and get a young man out of a scrape with officials. He was making some progress, unlike other civic action teams that stole chickens and ducks as they distributed propaganda pamphlets. But as the American captain was finishing his day's work, two South Vietnamese fighter planes swept in with rockets and cannon and destroyed half the hamlet on the basis of a report that guerrillas had been seen nearby.

Browne risks a few generalities. Of thousands of Vietnamese officials he has known, he says he can think of none who does not more or less hold the Vietnamese people in contempt. The feeling is reciprocated. As a result, he says, "I think it is safe to say that the average Vietnamese views the only good official as a dead one."

"When Vietcong terrorists publicly behead some hamlet or province official and then disembowel the wife and children as well, Americans tend to assume that this will result in a powerful reaction by the people against the Vietcong. Nothing could be farther from the truth in most cases. The Vietcong often liquidates a government official precisely because it knows such an act will please the local people."

He casts doubt, also, on the good personal relations supposed to exist between Americans and Vietnamese, warning that they are only skin deep.

"Most Vietnamese regard Americans as extremely gullible, politically infantile, and hypocritically softhearted," he says. "For these things, they hold us in contempt, which in Vietnam is much worse than mere dislike."

Halberstam gives much space to the Diem regime and the slowness of American officials to recognize that it was losing the war while insisting it was winning. He portrays as leaders in an American policy of self-delusion the commanding general at the time, Paul D. Harkins; the American Ambassador, Frederick E. Nolting Jr.; the CIA Director in Vietnam, John Richardson; and Adm. Harry Felt, commander of U.S. Naval Forces in the Pacific, who once told Browne to "get on the team."

Halberstam also recounts in detail an attack against him and other correspondents in Vietnam by Time magazine and an effort by President Kennedy to persuade the New York Times to take him off the assignment.

Both men present masses of evidence showing that the United States still is losing in Vietnam because it is engaged in the wrong kind of war, against an enemy that has superior strategy and appeal, and on the side of a people who either can't or won't exert themselves effectively against the enemy.

Browne concludes that "there is a distinct possibility that this war may be lost." Halberstam considers Vietnam vital to U.S. interests but is no more optimistic. Neither recommends a pull-out.

Neither book will be read much in South Vietnam. The government there bans books about the current trouble.

[From Book Week, May 2, 1965]

THE BULL IN THE INDOCHINA SHOP

(By John Paton Davies, Jr.)

("The Making of a Quagmire," by David Halberstam; Random House. 323 pp. $5.95.)

("The New Face of War," By Malcolm W. Browne, illustrated; Bobbs-Merrill, 284 pp. $5.")

"This is a political war and it calls for discrimination in killing. The best weapon for killing would be a knife. The worst is an airplane." These were the words of an American colonel, one of our military advisers in South Vietnam, quoted by David Halberstam in "The Making of a Quagmire."

"This is a rifleman's war," an American officer said to Malcolm W. Browne in "The New Face of War," "and I'd be happy if they took every plane and every cannon out of the country. They do more harm than good."

Since these opinions of a year or so ago, our emphasis has moved even further away from the knife and the rifle. The combined American-Saigon forces in 1964 lost steadily to the Vietcong-Hanoi guerrillas, and approached disintegration and defeat. Early this year we therefore changed the terms on which war was being fought. We openly increased our air activity inside South Vietnam and launched a phased air offensive against North Vietnam.

That the conflict in Indochina entered a new—and no less baffling—stage does not make the Halberstam and Browne books out of date. The fighting on the ground will go on. And should we step up and extend our use of indiscriminate weapons, the ultimate decision will still remain on the ground, in the villages, essentially political in nature. Especially will this be true if hostilities spread farther northward to include China. So, what Halberstam and Browne have to say is significant not only historically but also currently, and perhaps even prophetically.

Although Halberstam's is a rather personalized narrative and Browne's account is more schematically organized, what they have to say on the main issues in that country is remarkably similar. Last year they shared a Pulitzer Prize for their reporting on South Vietnam, and now their books appear at the same time. Browne continues to cover Vietnam for the Associated Press; Halberstam is now reporting for the New York Times out of Warsaw.

In their books, the authors have pretty well limited themselves to reporting on the conflicts within their immediate ken. These were: The Americans and the South Vietnamese military versus the Vietcong, the Americans versus the South Vietnamese military, the Ngos versus the Buddhists, the South Vietnamese generals versus the Ngos, the young generals and colonels versus the older ones, the mountain tribes versus the lowlanders, the students against everyone but the monks, and the press against all in top authority, excepting Henry Cabot Lodge. In short, they focused on an American involvement in an Asian war between the states, in the midst of a profound and chaotic social revolution, complicated by a variety of alien intrusions.

Wisely, the authors avoided probing into other conflicts bearing on South Vietnam: Washington versus Hanoi, Hanoi versus Peiping, Hanoi versus Moscow, Washington versus Peiping, Peiping versus Moscow, Washington versus Moscow, Washington versus Paris, Phnom Penh and U Thant. Unfortunately, they neglected the possibility of Vietcong versus Hanoi.

For the average reader trying to figure out what goes on in South Vietnam, I would suggest jumping into the middle of Browne's book, starting with his eighth and ninth chapters dealing with the basic elements of the Communist revolutionary formula in Asia—and Africa and Latin America. Chapter eight tells the simple story of a village and how a Vietcong agitation team strolled into it, ingratiated itself with the villagers, gradually incited them against their own officialdom and Americans, slowly organized and involved them in guerrilla activities, ending up with the community functioning as a Vietcong stronghold.

Now these villagers did not consider themselves to be what we call them—Communists. Most of them, with a world-view barely extending beyond the horizon visible from the highest point in the settlement, regarded themselves as the rightful inhabitants of their parcel of countryside and as always menaced by artillery, rockets, bombs, or napalm hurled indiscriminately at them by their own Government's forces and by Americans. This uneasiness produced a feeling of alienation toward Saigon and Americans. And if one or several members of the family had thus been killed, the feelings were likely to be distinctly unfriendly. Thus the Vietcong-indoctrinated peasant came to be politically motivated—a nationalist in the sense of being anti-American and anti-any native authority that collaborated with the imperialist invaders.

All Vietnamese were aware that the Vietcong practiced terrorism. But such violence ordinarily did not affect the average man, unless he were suspected of helping the Government and the Americans. For Vietcong terror usually was calculatingly selective, directed against officials, Americans and anyone who effectively advanced Saigon's

authority. Since mass support is essential, the Vietcong tends to avoid indiscriminate terror as a primitive matter of strategy.

Both Halberstam and Browne view Saigon's and our battle for men's minds in South Vietnam as a dismal failure. Neither the South Vietnam government nor we, they conclude, have been able, with rare exceptions, to win the confidence of the villagers. Browne's account of two country boys, 8 and 9, being captured and gone over by Government troops, and their stoic refusal to talk, reveals a little about the intensity of feeling and indoctrination of those we are fighting. The depth of this war for the Vietnamese, Browne reminds us, lies in understanding that, in one form or another, it has been going on for about a generation: "Men and women revolutionary guerrillas have been meeting and marrying in the jungles of Vietnam for the last 30 years or more, fighting Government forces side by side, and raising children to do just the same thing. For such families, revolution is not merely a campaign. It is a way of life."

Neither Halberstam nor Browne seem to have had much use for the top American command in Saigon—diplomatic, military or CIA—until Lodge arrived as a Yankee Brahmin placating Buddhists. Nothing is to be gained by rehashing here the acrimonious personal feuds within the American community based in Saigon, including Halberstam's fairly spectacular clash with the American brass because his reporting contradicted the official line. What does seem important, however, is that events have confirmed Halberstam's and Browne's contention that our principal officials misjudged the situation in South Vietnam. It was not just three or four people—misjudgments during the past decade or two have tended to be impressively a matter of unanimity.

What happens is something like this: There is a crisis. So the facts, such as they are, are considered and a decision is made. This decision is then locked into policy—a process that at least minimizes, when it does not discourage, information contrary to or critical of that policy. In the case of Vietnam—everyone was on the team—we would sink or swim with Diem, and the war was going better every time the question was asked. To doubt this answer was poor judgment, "careerwise." This pressure extended beyond Government employees to include the press, culminating in President Kennedy's suave suggestion to the publisher of the Times that Halberstam be taken out of Vietnam—a request to which Mr. Sulzberger did not accede until his "young man in Saigon" had been awarded a Pulitzer Prize for the very reporting that the authorities had so objected to.

Both Halberstam and Browne argue that we misread the nature of the conflict, committing the classic blunder of trying to apply what worked in the Korean war to the new and quite different struggle in Indochina. We thought in predominantly military terms—and conventional ones, at that—when the war was basically a political one. Yet when the two authors try to come up with something constructive on this score, the best that they can do is to suggest, in essence, that we get into close rapport with the Vietnamese people. But what they persuasively have to say about the cultural, psychological and material gulf between us and the Vietnamese people makes their recommendations read like wishful thinking born of desperation. "Most Vietnamese," writes Browne, "regard Americans as extremely gullible, politically infantile, and hypocritically softhearted."

In his final chapter, Halberstam makes an anxious summation of three supposed ways out of the quagmire: neutralization, withdrawal or the commitment of American combat troops. He rejects them all. He does not advocate—as President Johnson did last month—unconditional discussions with Hanoi, promising open-handed aid, which in the past has been bestowed upon those enemies who had to pay for it by submitting to unconditional surrender.

This economy-minded proposal of the President, leap-frogging the bloody, costly and uncertain interim endeavor to beat the Communists, moving straight into aiding North Vietnam, marks the beginning of yet another phase of our extraordinary misadventures in Vietnam. It makes Halberstam and Browne no more out of date than the bombing of North Vietnam did. Rather, it makes it more important that we understand how we got into the quagmire—and what its consistency may be.

ON ACCELERATING THE LANGUAGE

Mr. CHURCH. Mr. President, the situation which confronts us in Vietnam threatens the peace of the entire world. In such a situation, the United States needs to discuss its policy and alternatives in the most rational possible manner, without recourse to "blockbuster" name calling calculated to silence dissent.

Russell Baker, a highly respected journalist for the New York Times, made this point with skill and humor, in an article entitled "Observer: The Paper Tiger Blues," published in the April 25 issue of the New York Times. I ask unanimous consent that the article be printed at this point in the RECORD.

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

OBSERVER: THE PAPER TIGER BLUES

(By Russell Baker)

WASHINGTON, April 24.—There are fat, warm rain clouds over the Potomac and the smell of war on the air. It is harder to think calmly. Tulips are bursting open and in the streets the girls go ungirdled. Troops moving, marines engaged. With each fresh headline, you can feel the language being escalated.

They have begun to lob the big ones in. Words like honor, patriotism, appeasement. There is no defense against the big words. They are argument busters, debate enders. It is very risky venturing out with an un-Pentagon opinion once the language is escalated.

SMACK 'EM DOWN

Stand among the daffodils wondering if this war is absolutely necessary and the big-word boys zoom in and smack you with "appeaser," as Senator FULBRIGHT has just discovered. The latest pacifist demonstrators at the White House are no longer dismissed with the low-tonnage epithets, "innocent," "unrealistic," "unsophisticated," which hit the mark neatly without making a mess.

With the language escalation, they are now charged with promoting national dishonor, with weakening the President's hand or with giving comfort to Ho Chi Minh. Their patriotism is questioned. The aim at this stage is no longer to understand them, but to give them such a blasting that they will not dare to venture from under cover again.

VERBAL ESCALATION

This is still not total word war, however In that stage they will be given a dose of the 2,000-pounders—words like "Communist stooges," "draft dodgers," "cowards," "traitors." This stage usually occurs when the casualty lists start to swell. The purpose of the escalation in its present limited stage is to encourage people to think less and emote more.

The process by which war is escalated in controlled stages is well understood, but nobody knows how language escalation is managed. One day, everybody is discussing the war threat very sensibly and saying there must be calm thinking; the next, by some mysterious process, everybody is shouting "honor," "patriotism," "appeasement" and "Don't weaken the President's hand."

This is a dangerous situation. Philosophers like Herman Kahn and Henry Kissinger have given us a clear understanding of how to control war. Thus far, the President and his men seem to have learned it so well that they can control the pressure in Vietnam as cannily as a good chef controls his oven temperature.

The lack of any controls on the language, however, means that the country may easily escalate into a big-word state of mind and slip into a froth of emotionalism just when the President wants to deescalate the war for diplomatic advantage. In that situation, the President must face the risk of being bombed with "appeaser," "dishonor," "traitor" and all those other 2,000-pounders that make it so hard for Presidents to reverse escalators.

Right now, however, it is every man for himself in Washington, and the pacifists are not gentler than the hawks. Evenings out are evenings of peril. You can never be certain which side the big words will fall from.

SHRIMP WARFARE

Strangers bore in on you over the shrimp demanding to know if the war in Vietnam is not terrible. Say, "The President offered to negotiate," and they call you warmonger. Murmer a noncommittal, "Terrible, terrible," and hawks swoop across the room.

"You talk like a paper tiger," the hawks say. It is no good trying to wriggle out of it lightly. (Actually I'm a plastic tiger.) The hawks have a way of turning into fang, claw, hide, and hair tigers right under your nose and roaring, "Appeaser. Honor. Patriotism. Weakener of the President's hand. Ho Chi Minh lover."

Who gave these people permission to escalate the language? Nobody knows. At a moment when everybody ought to be thinking with absolute precision, they have been wantonly licensed to make life miserable for anybody who tries.

WHAT KIND OF WAR?

Here, for example, are the latest summaries of the Vietnam situation. They say that it is a civil war for independence but that it is a war of naked aggression by alien powers. They say that it cannot be won by either side but that neither side can lose. They say that it is deepening the division between Peiping and Moscow but bringing Peiping and Moscow closer together.

They say that American troops must not fight on land but that American troops must fight on land, and that while relations between Vietcong, Hanoi and Peiping are strained, relations between the Vietcong, Hanoi and Peiping are very close.

Could we tone down the language long enough to get the score?

BRAVO, BOURGUIBA

Mr. CHURCH. Mr. President, President Bourguiba, of Tunisia, deserves high commendation for statesmanship for making his recent statement about Arab-Israel relations. President Bourguiba told his fellow Arabs to quit stockpiling arms for war against Israel. The demonstrations against his statements staged in Egypt and in other Arab countries are deplorable.

In its April 28 edition, the Christian Science Monitor published a fine edi-

torial entitled "Bravo, Bourguiba." I ask unanimous consent that the editorial be printed at this point in the RECORD.

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

BRAVO, BOURGUIBA

"Long journeys begin with the first step." And there are many situations where it requires more courage and commonsense to take this first step than it does any of those which follow. This has long been true of the tragic and fruitless enmity between Arab and Jew in the Middle East. This impasse has now lasted so long that many observers have lost any hope of a settlement in the foreseeable future.

For this reason the initiative which President Bourguiba of Tunisia has shown on Palestine is all the more welcome. Although an Arab and thus subject to tremendous pressure on the issue, President Bourguiba has had the courage to tell some homely and much-needed truths about the situation.

First and foremost is his statement that the Arab-speaking nations of the Middle East are throwing their money away in accumulating weapons to be used against Israel. For, he warns, any Arab aggression against Israel is bound to fail because world public opinion will not put up with an Arab-Israel war in that area. These are not words which Arab public opinion (as perhaps distinguished from soberer government opinion) may be happy to hear. For too many years the Arabs have been deluded by their leaders and by self-appointed demagogs into believing that Israel would be driven into the sea.

Yet it is essential that all illusions about the Middle Eastern situation come to an end. It is possible that Israel may eventually find it necessary to make some accommodation regarding territory and compensation for Arab losses. The Arabs, in turn, must accept the fact that Israel is there to stay. We hope that President Bourguiba's wise and courageous words will be that first drop of water which eventually wears away the senseless adamancy of Arab-Israel animosity.

WILD RIVERS BILL

Mr. CHURCH. Mr. President, the Senate Interior and Insular Affairs Committee on Thursday and Friday of last week conducted hearings on S. 1446, the bill to create a National Wild Rivers System. This is, as you know, tremendously important conservation legislation, and was requested by the President.

I was happy to see that the Scripps-Howard newspapers published an editorial endorsing the bill; and I ask unanimous consent that the editorial be printed at this point in the RECORD.

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

[From the Washington Daily News, Apr. 15, 1965]

KEEP OUR WILD RIVERS FLOWING FREE

The new administration bill to establish a National Wild Rivers System is a logical supplement to last year's historic wilderness bill which became law.

The new measure, introduced by Senators FRANK CHURCH, Democrat, of Idaho, and HENRY JACKSON, Democrat, of Washington, would preserve unspoiled, in a setting of sufficient reserved land, all or part of six rivers. These rivers are the Salmon in Idaho, the middle fork of the Clearwater in Idaho, the Rogue in Oregon, the Rio Grande in New Mexico, the Green in Wyoming, and the Suwanee in Georgia and Florida.

It also lists nine rivers for joint Federal-State consideration as additions to the system. These include the Buffalo in Tennessee and the Cacapon in West Virginia in their entirety; and segments of the Eleven Point in Missouri, the Hudson in New York, the Missouri in Montana, the Niobrara in Nebraska, the Skagit in Washington, the Susquehanna in New York and Pennsylvania, and the Wolf in Wisconsin.

The wild rivers bill "deserves the warm support of conservationists everywhere," said Senator CLINTON P. ANDERSON, Democrat, of New Mexico, cosponsor of the wilderness law. Indeed it does.

In his message on natural beauty, President Johnson said:

"The time has come to identify and preserve free-flowing stretches of our great scenic rivers before growth and development make the beauty of the unspoiled waterway a memory."

IS PEACE POSSIBLE IN THE CONGO?

Mr. CHURCH. Mr. President, while our attention is riveted on southeast Asia, "The word 'Congo' is taking its place in the world's lexicon as a synonym for tragedy," a senior editor for Look magazine has written recently.

In an article entitled "Is Peace Possible in the Congo?" Ernest Dunbar has summarized the seething situation in that unhappy land.

Not long ago, I wrote that our involvement with Tshombe "serves only to turn the tide of African opinion increasingly against us." Mr. Dunbar's fine article goes to prove that point.

Mr. President, this article is well worth the consideration of thoughtful Americans. I ask unanimous consent that it be printed at this point in the RECORD.

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

IS PEACE POSSIBLE IN THE CONGO?

(By Ernest Dunbar)

Slowly, the word "Congo" is taking its place in the world's lexicon as a synonym for tragedy. For much of its history, that huge land mass lying at the heart of Africa has seemed to call forth man's basest instincts. Like some sumptuous siren who provokes lust, greed and madness in all who gaze upon her, the Congo has shown what men—black and white—can be at their worst.

In 1482, when the Portuguese explorer Diogo Cão led the first Europeans into what was then the African kingdom of Kongo, his goal was to bring Christianity to pagans. But the priests who came were followed by those who dealt in humans, and millions of men, women, and children were shipped from the Congo to the New World as slaves. In the 1820's, Portuguese slavers were followed by Arab slavers, who had trekked across the neck of the continent from East Africa. With the help of avaricious African chiefs, they emptied villages and destroyed societies to fill out their slave caravans.

From 1885, when the huge African territory became the personal plantation of Belgium's King Léopold II, to Moïse Tshombe's independent republic of 1965, the Congo has frequently been a thing to be plundered, to be possessed. The atrocities under Léopold—ranging from cutting off the hands or feet of Congolese, to death after mutilation—inflicted upon those who failed to meet rubber-gathering quotas, took an estimated 8 million lives. When the story leaked out, it brought down the condemnation of the international community upon the King's head and resulted in the annexation of the Congo by the Belgian Government in 1908.

The Congo remains a country of incredible natural wealth—diamonds (it furnishes 48 percent of the world's industrial diamonds), copper (it is the world's fifth largest producer), cobalt, gold, tin, uranium, radium, rubber, and a variety of agricultural products.

But the Congo's riches have been both its curse and its blessing, attracting major powers and small-time adventurers alike. With its vast size, its relatively small (15 million) population, its mineral, agricultural, and hydroelectric potential, the Congo could be the most prosperous country in Africa. Instead, each day, its misfortunes seem to proliferate like cancer cells.

While the Belgian Government provided a number of superior social services to the Congolese in its 52 years of colonial rule, preparation for independence was not among them. Long denied the right to political activity, barred from supervisory jobs, or from becoming officers in the military, admitted to secondary schools in a relative trickle, the Congolese were manifestly unready when the Belgians, panicked by several days of rioting in Léopoldville in 1959, decided to grant them independence.

The dreary prolog is all too well known. When the Congo received its freedom in 1960, it was a nation without a single Congolese physician, engineer, lawyer, or civil servant with experience at responsible government levels. There were less than 20 college graduates in the entire population. The crisis-rent 4 years of Congolese "independence" have found that nation seldom out of the headlines. Its troubles have drawn men, minds and money in Congo-sized proportions: the 1960–64 United Nations operations (civilian and military) cost $433 million and the life of U.N. Secretary-General Dag Hammarskjold. The Belgians spent $280 million in various forms of aid in the period 1960 to 1963, and that aid continues to grow. The United States, already a major contributor to U.N. Congo funds, is increasingly involved in the day-to-day operation of the Congolese economy, to the tune of $55 million in aid during the past year. Today, despite the massive outpouring of francs and dollars, the Congo is in the midst of a savage, merciless civil war, with international overtones, that is making the Congo the very cockpit of East-West confrontation that the 4-year U.N. operation was designed to prevent.

In January of last year, a rebellion broke out in Kwilu Province, a heavily populated area southeast of Léopoldville that had known revolt during the Belgian colonial administration. Many factors influenced the uprising, among them tribal differences, but central to the unrest was a widespread feeling that the fruits of independence, so long hoped for, were not being enjoyed by the ordinary people. While the average Congolese saw his money become worth less and less, he noted that provincial officials lived in big houses, drove expensive cars and spent lavishly on a variety of pleasures.

The Kwilu residents also resented the increasing control of their lives by the ambitious provincial government. This simmering discontent was exploited by Pierre Mulele, a former Minister of Education under the late Premier Patrice Lumumba. (After Lumumba broke with President Joseph Kasavubu, the Congo chief of state, Mulele became part of a Lumumbist rump government in Stanleyville.) Pierre Mulele visited China in 1960 or 1961 and is regarded now as a prime agent of Chinese influence in the Congo. He and his followers traveled around Kwilu, railing against the exploitation of the peasants by "colonialists," European and

Congolese. The result was a revolt compounded of "Mulelism," tribal hostilities, ancient grievances, superstition and Marxist doctrine with a Congo twist.

From indoctrination camps set up in the bush, Mulele rebels went forth to spread revolt through persuasion and terror. The Kwilu rebellion was followed by similar uprisings in Kivu, Maniema and North Katanga provinces, and soon a fifth of the Congo was in rebel hands.

Other rebel leaders such as Christophe Gbenye (another ex-Lumumba cabinet officer) and Gaston Soumialot, who had also been to China, grouped to form the National Liberation Committee (NLC), the rebels' coordinating agency. Money and advice flowed to the NLC from Chinese embassies in the former French Congo (Brazzaville) on the west, and tiny Burundi, on the Congo's eastern border.

When the U.N. removed its troops last June, the United States and Belgium were alarmed at the success of the rebel movement and at the seeming inability of then Prime Minister Cyrille Adoula to check its spread. They also feared that if Tshombe revived his old Katanga secession, the Congo would collapse. They thus encouraged President Kasavubu and the influential "Binza" clique to bring back the man who some felt was the only Congolese with the finesse the deteriorating situation required: Moïse Tshombe.

Tshombe offered to go to Brazzaville to meet rebel representatives, and did actually journey to Burundi, but since the key features in the rebels' demands were, and are, the ouster of Kasavubu and Tshombe himself—both held responsible for Lumumba's death—his overtures got nowhere. (Tshombe persuaded one rebel representative to join his cabinet, but the NLC promptly denounced him as a traitor.) Tshombe has appealed to the Organization of African Unity (OAU) for troops to help put down the revolts, but most of its members see him as a stooge of white colonial and industrial interests.

With a demoralized Congolese Army that often threw down its arms and faded before rebel advances, Tshombe turned to the force he felt he could count on: the white mercenaries who had fought for him in Katanga. The decision, which had the approval and assistance of the U.S. State Department, the Central Intelligence Agency, and the Belgian Government, was to have far-reaching effects.

It was undoubtedly the worst move ever made by the United States in Africa. With funds supplied by the United States, Tshombe's chief recruiter, J. C. Puren, a South African, brought in more than 200 mercenaries, most of whom were South Africans and Rhodesians. Planeloads flew directly from Johannesburg to Kamina, the former Belgian military base in Kantanga that is now the central staging point for the mercenaries. The South African Government indicated its support by flying up food and other supplies for the adventurers. If the Chinese had planned it themselves, they could hardly have written a better script. Once the mercenaries went into action, Tshombe's fortunes took an illusory turn for the better. With U.S.-supplied B–26's bombing enemy strongholds and U.S.-furnished T–28's (flown by Central Intelligence Agency-recruited Cuban exiles) strafing rebel positions, Congolese Army troops, with mercenaries in the lead, retook town after town in the rebel-desolated eastern provinces. As they advanced, another Congo tale of horror unfolded: The rebels had systematically wiped out many Congolese deemed "intellectuals" (i.e., those with even a rudimentary education), opposition party members and hundreds of victims of old grudges. For many, death was preceded by torture.

When the mercenaries and their Congolese troops swept into a village, the slaughter began all over again. With no way of distinguishing rebels from nonrebels, the mercenaries frequently shot everyone in sight. Since youngsters, 10–14 years of age, in the rebels' Jeunesse wing had been among the most rabid killers, any youth was a goner if he came into the sights of the government forces. The Geneva Convention does not operate in the Congo, on either side. Although the figures are difficult to come by, probably more than 100,000 Congolese have lost their lives in the struggle.

The Tshombe government's military high point came with the retaking of the rebel stronghold of Stanleyville by Belgian paratroopers during November's rescue of white hostages, an operation that also handed over the city to the advancing mercenary and Government troops. Tshombe clearly believed that the fall of Stanleyville, symbolic center of Lumumbist sentiment, would mean the end of the rebellion. But rebels have seeped back into areas from which they were driven. Now, what seemed like a victory threatens to become the springboard for a massive defeat—or worse. African opinion abroad, already seething over Tshombe's continued use of the mercenaries, erupted. While the rescue had every justification, and the African reaction at the U.N. seemed irrational, the drop evoked memories of Belgian paras who had come to Tshombe's aid during the Katanga secession.

Algeria and the United Arab Republic, which, along with several other states, had been helping the rebels covertly, publicly acknowledged their aid and promised to send more. More significantly, the East African nations of Kenya, Uganda, and Tanzania, which had maintained a show of neutrality, have since vowed to support the rebels. The specter of "advisers" from other African states (with Sino-Soviet backing) joining the rebel forces, or of diplomatic recognition of rebel government-in-exile, looms threateningly.

One of the ironic aspects of the Congo crisis is that, apart from the war and the disruption in the areas afflicted by it, the country is in the midst of an economic revival. Because of fiscal reforms instituted by Former Prime Minister Cyrille Adoula on the advice of U.N. experts, and with generous injections of U.S. aid, the Congolese franc, once as shaky as a jungle lean-to, is now firming up. Stores have full shelves once more, in Léopoldville if not in the interior. According to Léopoldville's Institute of Economic and Social Research, prices have dropped 40 percent since January 1964. The precious revenue-earning minerals continue to flow from Katanga.

The Congo might be farther along the road to recovery if it were not for another, less publicized war between whites—between Flemish and Walloon Belgians, between metropolitan Belgians alined with Foreign Minister Paul-Henri Spaak, and those Katanga Belgians linked with Prof. René Clemens, Tshombe's chief adviser.

Belgium, smarting under 4 years of international criticism for its ignominious bolt from the Congo, has proposed a partial solution to the country's critical shortage of administrators: Teams of highly trained, multipurpose technical experts, who could move into newly liberated areas and be judge, mayor, traffic commissioner, or whatever else the situation required, until Congolese could be found to replace them. Though he originally asked for the plan, Tshombe has so far refused to embrace it, apparently under pressure from his Katangese Belgian advisers, who are worried about their jobs.

While the Government is beset by intricate rivalries, the Congo staggers on toward a dangerous chasm. Tshombe brings in more white mercenaries, knowing that, without them, he could not survive. The United States pays, feeds, arms, and transports them hoping for a quick Tshombe victory and the internal stability that can give the Congo a chance. But with every mercenary produced by the CIA, the fortunes of America in Africa have taken a plunge. The Chinese, without committing a man, are reaping a fine harvest. They are campaigning hard to convince Africans that the United States is basically a racist nation, more sophisticated than, but not different from, South Africa. The mercenaries are the proof they needed.

Because of the rebel slaughter of provincial officials and other educated Congolese, the prospects for putting capable Congolese administrators in the areas where they are needed are nil. Since maladministration itself was one of the sparks that set off the rebellion, this inability makes further revolts a certainty.

Hatred and fear of the plundering, brutal Congolese Army by residents in rebel areas make that force unsuitable as a peace-keeping agency, even where an administration can be mounted. (Moreover, despite their ravages, the rebels have wide support in the eastern Congo.) Nor can the army seal off the Congo's 905,000 square miles from anti-Government forces. The Congo is hemmed in on three sides by states aiding or sympathetic to the rebels.

Is there a solution? Yes, but it is as difficult as the nonsolution now being pursued by the State Department and the CIA. No answer can be found to the Congo's problems without the sanction of the rest of Africa, to which the Congo now presents a Cuba-like threat. If U.S. policymakers are as willing to work with and support a peace force drawn from African nations as they now are to support Tshombe's South Africans, there can be a reconciliation of the Congo rebels and the central government. Admittedly, the African states themselves have not shown the initiative they should have, and it is not likely they will ever be enthusiastic over any government with Moïse Tshombe in it. But there are other able Congolese who might better employ the U.S. backing Tshombe now enjoys. We should encourage their participation—with or without Tshombe.

American policymakers say the Congo is a sovereign nation and that we cannot interfere with its internal affairs. But the truth is that we have been and are continuing to "interfere" with Congolese affairs. Tshombe is dependent on the United States and Belgian support he gets, and that is the reality. If he continues to get it—and holds to his present course—U.S. policy in the Congo will be self-defeating. The racial fuse, already lit by the Chinese in Africa and fanned by Tshombe's white mercenaries, may set off an explosion more dangerous than the Johnson administration appears to appreciate.

THE U.S. BALANCE OF PAYMENTS AND PROSPECTIVE DEVELOPMENTS

Mr. MUSKIE. Mr. President, the International Finance Subcommittee of the Banking and Currency Committee during March conducted a series of hearings on the problem of the continuing deficits in our balance of payments and the resulting outflow of gold with reference to possible means of dealing with these problems. The record of these hearings is being printed and will be available within the next week. The subcommittee plans to conduct further hearings on the subject.

Last week, Mr. Kermit Gordon, Director of the Bureau of the Budget, announced receipts from Dr. Edward M.

Bernstein, Chairman of the Review Committee for Balance of Payments Statistics, of the formal report of the Committee—a 200-page document entitled "The Balance of Payments Statistics of the United States: A Review and Appraisal." In connection with this announcement and release of the report, Mr. Gordon issued a statement explaining the genesis of the study and also issued a brief summary of the Bernstein committee report.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks Mr. Gordon's statement and the summary of the Review Committee report. This report is being reviewed by an interagency committee before any steps are taken by the executive departments to accept or implement its recommendations.

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

(See exhibit 1.)

Mr. MUSKIE. Mr. President, as was announced by Senator PROXMIRE last week, Dr. Bernstein, accompanied by members of his committee, will appear before the Subcommittee on Economic Statistics of the Joint Economic Committee on May 11, to discuss their report and recommendations, which deal principally with technical aspects of statistical collection and presentation.

Dr. Bernstein, who is an outstanding expert on international finance, is scheduled to appear on May 17 before the International Finance Subcommittee of the Banking and Currency Committee to present his views regarding the broad aspects of the U.S. balance of payments and prospective development.

The analysis of the statistical problems and of concepts given in the report of the Bernstein Committee will doubtless contribute to a better understanding of the current problem, and its recommendations for improvements in data should be given most careful consideration by the executive departments and the Congress.

This report makes a number of recommendations as to improvements needed in our statistics to meet present and prospective requirements for detailed and accurate balance-of-payments data. The proposal receiving most attention relates to a basic revision in the method of measuring the payments surplus or deficit. The new measurement of the deficit or surplus, proposed by the committee, called the "balance settled by official transactions" has for many years been consistently smaller than the "balance on regular types of transactions," the concept most frequently used in the past.

Although the committee expresses the belief that the "official settlements" concept "best summarizes the payments position," the report points out that the difference in means of measurement does not change, in basic nature or magnitude, the significance of the balance-of-payments problem. It calls attention to the fact that the current deficit under either concept is considerable and that "the need for policies to eliminate the deficit is no less urgent than before." The report does not propose or discuss measures for reducing the deficit. These are the aspects of the problem that are being considered by the International Finance Subcommittee in its hearings.

EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT, BUREAU OF THE BUDGET,
Washington, D.C., April 30, 1965.

Kermit Gordon, Director of the Bureau of the Budget, announced today that he has received from Dr. Edward M. Bernstein, chairman of the Review Committee for Balance of Payments Statistics, the formal report of the committee—a 200-page document entitled "The Balance of Payments Statistics of the United States: A Review and Appraisal."

The review committee was appointed in April 1963 by the Director of the Bureau of the Budget, after discussion with the Secretary of Commerce, the Secretary of the Treasury, and the Chairman of the Council of Economic Advisers. It was asked to study the adequacy of the U.S. balance-of-payments statistics, and to make recommendations for their improvement. The review encompassed basic conceptual problems, problems of presentation and analysis, and technical statistical problems of data collection and related matters.

The report, while agreeing with the consensus of U.S. and foreign experts "that the balance-of-payments statistics of the United States are considerably better than those of most other countries," nevertheless finds that improvements are needed to meet present and prospective requirements for detailed and accurate balance-of-payments data. The report proposes a basic revision of the method for measurement of the balance-of-payments "surplus" or "deficit," urges the strengthening of the various bodies of data, and recommends changes in the presentation and publication programs.

In receiving the report, Mr. Gordon said: "The committee's report is even more timely today than when the committee was appointed. With the growing awareness of the close relationship between the Nation's balance of payments and our domestic prosperity, it has become increasingly important that our balance-of-payments statistics be as reliable and informative as it is possible to make them. The recommendations of this expert committee, which grow out of 2 years of hard work and extensive consultation with users and compilers of these statistics, will be reviewed and evaluated with the greatest care."

The report is being distributed to the agencies of the Government concerned with balance-of-payments statistics, either as users or as compilers. An interagency committee under the chairmanship of William M. Capron, Assistant Director of the Bureau of the Budget, has been asked to review the recommendations made in the report. On the basis of this review, determinations will be made as to the extent to which the recommendations will be accepted and the manner of implementation.

The membership of the Review Committee for Balance of Payments Statistics consists of:

Edward M. Bernstein, chairman, president, EMB (Ltd.), Research Economists.

Richard E. Caves, professor of economics, Harvard University.

George Garvy, economic adviser, Federal Reserve Bank of New York.

Walter E. Hoadley, vice president and treasurer, Armstrong Cork Co.

Harry G. Johnson, professor of economics, University of Chicago.

Peter B. Kenen, professor of economics, Columbia University.

Roy L. Reierson, senior vice president, Bankers Trust Co.

Charles F. Schwartz, Assistant Director, Western Hemisphere Department, International Monetary Fund.

A brief summary of the committee's findings and recommendations supplied by the committee, is attached.

A BRIEF SUMMARY OF THE BALANCE-OF-PAYMENTS STATISTICS OF THE UNITED STATES: A REVIEW AND APPRAISAL

(Report of the Review Committee for balance-of-payments statistics to the Bureau of the Budget)

The Review Committee for Balance-of-Payments Statistics, as requested by the Director of the Bureau of the Budget, has reviewed in detail the purposes for which balance-of-payments statistics are needed; the scope and quality of the statistics; the ways in which they are collected, processed, and presented to the public; and the important conceptual problem of defining a balance-of-payments surplus or deficit.

IMPROVING THE STATISTICS

The committee has concluded that in spite of the high quality of the balance-of-payments statistics, which is widely recognized in this country and abroad, improvements are urgently needed if the data are adequately to meet present and prospective needs for their use in economic analysis and in government policymaking and business planning.

The international transactions of the United States have become more complex and also more important for both the domestic economy and the world economy. Policy decisions in a variety of fields have in recent years been determined to an important extent by balance-of-payments considerations. Despite great improvements in the statistics, they have not kept pace with the growing need for balance-of-payments information. This need, although dramatized by the large and persistent deficit in the U.S. balance of payments, is not a temporary one peculiarly associated with the deficit, but will remain and grow even after the present payments problem is solved.

A large statistical discrepancy—the "net errors and omissions" item—indicates an inability to identify or measure a large volume of international transactions, and to interpret developments. For instance, the deficit settled by official transactions diminished by about $1 billion from 1962 to 1963. Yet the available data on trade, services, and capital transactions identify only about $250 million of this improvement. Larger changes, favorable to the extent of about $750 million, remain unidentified in net errors and omissions. And the sum of gross errors and omissions in individual accounts is probably considerably larger than the net discrepancy.

The committee reviewed in some detail the derivation of the various bodies of data which enter into the balance-of-payments statistics. A large number of specific recommendations are offered, aimed at improving the accuracy and coverage of the data and securing a better knowledge of the sources of remaining errors and omissions.

An important group of recommendations is concerned with improving the quality of the data through better reporting by those who fill in the forms on which the basic data are reported. In the interest of better understanding and response by the reporters, consultation between Government technicians and individual reporters should be carried or much more extensively and systematically. Reporting instructions should be clarified and adapted from time to time to changing circumstances; compact and comprehensible reporting manuals should be provided; and the significance of accurate reporting must be made clear to senior executives of reporting companies.

The committee recommends better coverage by existing reporting programs in certain areas, and, in general, a systematic review of the coverage of required reports. Also, various special studies or extensions of the

reporting program are suggested, including bench mark surveys in areas where more frequent reporting is impossible or must be limited to sample coverage. The report urges a new census of U.S. business investments in foreign countries, special surveys of other asset holdings; a special survey to check the quality of current data on merchandise trade, and improved sample surveys of certain kinds of personal expenditures.

The possibility of obtaining balance-of-payments data through established surveys presently conducted for other purposes should be explored, and new sources of data and ways of cross-checking them should be developed. The committee has offered various specific suggestions, including greater use of statistics collected in foreign countries.

Users of the statistics should be provided with an up-to-date manual of the methodology used in compiling them, and with ancillary information, such as measures of reliability of the data and indexes of import and export prices.

STAFF AND ORGANIZATION

The committee notes the need for increases in the personnel of agencies directly engaged in the statistical work, and particularly of the balance-of-payments division of the Office of Business Economics. Pointing to a serious overload of work on the present staff, the report urges staff increases at all levels and greater reliance on automatic data processing.

The recommended improvements will require the cooperation of a number of Government agencies which contribute to the statistics in various ways, and the committee emphasizes the importance of central leadership by the Office of Statistical Standards in the Bureau of the Budget, pursuant to its Government-wide responsibilities for the quality of Federal statistics. This office should make sure that the data are systematically evaluated on a continuing basis, lend support to the programs of the cooperating agencies, and seek professional consensus within the Government on questions involving the compilation and presentation of the data. To perform these functions, the Office requires strengthening.

PRESENTATION OF THE BALANCE OF PAYMENTS

The committee recommends an extensive revision in the method of presentation of the data. A quarterly summary table would show the main features of the balance of payments in what the committee regards as a shorter and clearer form than the several summary tables now published. Detailed tables dealing with important components of the balance of payments and keyed clearly to the summary table would also appear in each quarterly presentation. A yearbook on the balance of payments would provide a convenient source for more detailed information, including data now published in special articles in the "Survey of Current Business" and in occasional statistical supplements. The report contains tables illustrating the committee's proposals for both the quarterly and the yearbook presentations.

MEASURING THE DEFICIT

No single number can adequately describe the international payments position of the United States at any time. However, the committee recognizes the legitimate need for summary indicators of the position and recommends that the principal measure of the surplus or deficit be the balance settled by official transactions. This is shown by changes in the reserve assets of U.S. monetary authorities, changes in all U.S. liabilities to foreign monetary authorities, and certain special transactions consisting of large prepayments of official debts to the United States. The main difference between this concept of balance and that embodied in the liquidity approach of the currently published official statistics is in its treatment of certain flows of foreign capital. Thus inflows that increase U.S. liabilities to foreign creditors other than monetary authorities are regarded under the official settlements concept as capital inflow helping to reduce the U.S. deficit, rather than helping to finance it.

The committee believes that the official settlements concept of deficit or surplus in international payments, with its stress on the distinction between monetary authorities and all other transactors, best summarizes the payments position in a world of stable exchange rates in which the authorities typically have to fill any gap between normal supply of and demand for foreign exchange. This concept has the added advantage of being symmetrical when used by different countries, and it is less subject to errors and omissions than the currently published measure of surplus or deficit.

INTERPRETATION OF THE PAYMENTS POSITION

The interpretation of the balance-of-payments position of the United States requires careful analysis of the statistics. An important part of such analysis consists of identifying interrelationships among particular credit items (such as exports) and related debit items (such as imports, foreign investments, Government aid, etc.). But statistics alone can never identify these interrelationships, and standard statistical presentations should not attempt to do so. Gross flows should be shown wherever practical, and analysis of net impacts should be reserved for special tabulations and articles.

A primary responsibility for analysis rests on the able staff of the balance-of-payments division of the Office of Business Economics, which, however, should be strengthened to permit it to make a greater contribution than is possible with its present resources. Agencies concerned with balance-of-payments policy should also give greater attention to analysis, and agencies with important international transactions should expand and coordinate analytical studies of their own operations.

The balance on official settlements would show a deficit from 1958 through 1964 averaging $2.6 billion a year, lower by about $900 million a year than the so-called balance on regular transactions emphasized in the official figures. (See appended table.) Despite the fact that the deficit is smaller under the committee's definition than under the present definition, the payments deficit to be eliminated is still considerable. The need for policies to eliminate the deficit is no less urgent than before.

The table below presents a highly condensed version of the main summary table recommended by the committee for the regular quarterly presentation, and a reconciliation of the balance settled by official transactions, as recommended by the committee, with the balance on regular types of transactions, as currently presented in the official statistics.

Condensed summary of the U.S. balance of payments, 1958–64, with reconciliation items

[In billions of dollars]

	1958	1959	1960	1961	1962	1963	1964 [1]
Goods, services and remittances (net receipts (+))	1.5	−0.7	3.2	4.9	4.3	4.9	7.4
Merchandise exports	16.3	16.3	19.5	19.9	20.6	22.0	25.2
Merchandise imports	−13.0	−15.3	−14.7	−14.5	−16.1	−17.0	−18.6
Services, except military, and remittances (net)	1.4	1.2	1.1	2.0	2.2	2.1	2.8
Military payments and receipts	−3.1	−2.8	−2.7	−2.6	−2.3	−2.2	−2.0
U.S. Government grants and capital (net) (excluding debt prepayments)	−2.6	−2.4	−2.8	−3.5	−3.7	−3.9	−3.7
Foreign official capital, except claims of monetary institutions (net)	.3	.4	.6	.4	.4	.3	0
Long-term private capital (net)	−2.6	−1.4	−2.1	−2.2	−2.7	−3.3	−4.1
Short-term private capital, except claims of foreign commercial banks (net)	−.2	.1	−1.6	−1.3	−.5	−.3	−1.7
Short-term claims of foreign commercial banks (net)	0	1.1	.1	.6	−.1	.4	1.4
Net errors and omissions	.5	.4	−.8	−1.0	−1.1	−.3	−.9
Balance settled by official transactions	−3.0	−2.5	−3.5	−2.0	−3.3	−2.3	−1.5
Less selected inflows of foreign capital:							
Short-term claims of foreign commercial banks	0	1.1	.1	.6	−.1	.4	1.4
Other liquid foreign private claims	.2	0	−.2	.1	.1	.4	.3
Foreign official capital except claims of monetary institutions	.3	.4	.6	.4	.4	.3	0
Plus other adjustments (net) [2]	0	−.2	.1	0	.1	.1	.1
Balance on regular types of transactions	−3.5	−4.2	−3.9	−3.1	−3.6	−3.3	−3.1

[1] Preliminary.
[2] Includes cumulative effects of rounding.

WATER RIGHTS IN THE JORDAN RIVER SYSTEM

Mr. HARTKE. Mr. President, I have been perturbed recently by the persistent talk of Arab schemes to divert the headwaters of the Jordan and deprive Israel of her fair share of Jordan water in the system. Water is of vital interest anywhere in the world and that is particularly true in arid zones where rainfall is poor. It is therefore logical and reasonable that what sources are available should be shared out equitably among those affected and should be put to good and constructive use. That is no more than sound commonsense, fairplay, and international usage.

The United States has always sought to encourage and aid the legitimate economic development of countries in that region. In that economic development, the exploitation of water resources must necessarily play a major role. Accordingly, the United States, under the Eisenhower administration, made a sustained effort to evolve a plan for the fair and equitable distribution of the waters of the Jordan River system among the riparian states. Its allocations to the Arab States were largely based on figures submitted by the Arabs themselves, and, in fact, the plan won their approval on the technical level.

Jordan started her own water scheme, which we support so long as it remains within the allocation of the unified plan. Last year Israel, too, started pumping water from the Lake of Tiberias in strict conformity with the quantities assigned her. The U.S. Government has made it clear that it supports these schemes

which are within the framework of the plan. It remained, then, for Lebanon and Syria to plan the use of the water allocated to them and the entire scheme would have come into being as planned.

The Arab countries, however, have now worked out plans, and some preparatory work seems to have been carried out, to divert all the waters of two headstreams of the Jordan, which rise near the Israel border. If implemented, these schemes would flout the principle of the equitable sharing of the available waters which is the basis of the unified plan. They would be a flagrant encroachment on the rights and vital interest of another riparian and would be a threat to the stability in the area. They would set a most dangerous precedent in international affairs, for there are few countries in the world who are not coriparian with others on some water source and for whom the precedent of callous disregard of the rights of another riparian would not be a cause for profound concern. I would hope that every effort is being made to persuade those concerned to stay within the legitimate and equitable uses which the plan has delineated after long and comprehensive study and negotiations. Such schemes, which are injurious to the vital interests of others, would be nothing but a form of indirect aggression, however cleverly masked, and would be so regarded by people of this country as, I am sure, by world public opinion as a whole.

MRS. LORENA CHIPMAN FLETCHER—NATIONAL MOTHER OF THE YEAR

Mr. BENNETT. Mr. President, for the second time in 10 years Utah has been honored when a wonderful woman from our State has been selected as the National Mother of the Year. This year the selection fell on Mrs. Lorena Chipman Fletcher, wife of Dr. Harvey C. Fletcher.

Dr. Fletcher himself has received many honors during a long and illustrious career as an early theoretical physicist who specialized in acoustics. I think it is particularly fitting and significant that his honors are now matched by this award which has come to his wife.

While I had known the Fletchers more or less casually for many years, my personal and more intimate acquaintance with the family began when their son, Dr. Robert Fletcher, became the first Bennett son-in-law, the husband of our oldest daughter, Rosemary. This happened 20 years ago and since then I have become acquainted with all of their five outstanding sons and their lovely daughter. Four of the five sons like their father are scientists. The fifth an eminent lawyer.

The achievements of all of them make an imposing list; for instance, the lawyer son is now vice president and general counsel of Western Electric. Another son is president of the University of Utah and my son-in-law is vice president of research and development of the Sandia Corp., an important unit in our nuclear weapons program. To the personal honors that have come to all of these men is now added the satisfaction that their mother's contribution to the great and multiple success that has followed this family has now been recognized. I am sure all of the people of Utah share this feeling and my desire that it be publicly expressed in the Senate.

PRESIDENT JOHNSON IS RIGHT

Mr. ROBERTSON. Mr. President, I was acting as chairman of our delegation to a meeting of our Interparliamentary Union, in Brasilia, when President Kennedy issued his famous warning to Russia to take both her long-range missiles and her military forces out of the nearby and previously friendly country of Cuba. With respect to President Kennedy's order, I told the cheering delegates at Brasilia:

I had hoped to talk today about some of the responsibilities and opportunities we have as legislators to strengthen representative political institutions. But the attention of all of us has been diverted by the gravest threat of nuclear war since the Communist invasion of the free Republic of Korea more than a decade ago.

Now—as then—it is international communism, founded in deceit and backed by ruthless power, which is responsible.

Two elements have been added, so that in the present crisis we are dealing with a threat of a new magnitude and a new dimension. Technology has rapidly given the world more awful weapons. And these weapons have now been introduced into a part of the world which had hitherto been spared their presence.

This lends a new urgency to that topic of our agenda which deals with disarmament. Yet at the same time, it casts something of an aura of unreality over the millions of words which have been said on the subject. A large number of those words unfortunately have been untruthful and deceptive. The representatives of international communism have been talking peace, but preparing for war.

It is significant that there is no Cuban delegation among us today. There is no Cuban parliament. It will be recalled that when Mr. Castro was embattled in the Sierra Maestra, he promised his people free elections. But once he came to power, it was a different story. Elections, he said, were not necessary. The will of the Cuban people and the spirit of their revolution, he said at one of his mass meetings, could be amply expressed without elections, through public assemblies such as he was then addressing. In any event, he added, popular support of him and his revolution was such that there was really nothing to have an election about.

Mr. Castro was well aware, of course, that a freely elected congress would no doubt hinder his already well-advanced plans to deliver his long-suffering country into the hands of the international Communist movement.

That delivery has long since been completed, and Mr. Castro has publicly boasted of it.

So long as that was all, it was a tragedy for the Cuban people and a cause of concern to all free nations, especially in the Western Hemisphere, but it was not a threat to world peace.

But international communism was not content with enslaving the Cuban people. No. It wanted, also, to use their island as a base for furthering its aggressive intentions against the remaining free nations of the Western Hemisphere, including the United States.

While the spokesmen for international communism repeatedly proclaimed their purely defensive intentions, they were, in fact, hurriedly installing a capacity to deliver nuclear warheads to the north as far as Canada and to the south as far as Brazil. There is no doubt about this. My Government has incontrovertible proof. This is why the President of my country, as he himself explained so eloquently and forthrightly Monday night, has taken the measures of which we are all aware.

When referring to the buildup in Cuba, the President said: "But this secret, swift, and extraordinary buildup of Communist missiles in an area well known to have a special and historical relationship to the United States and the nations of the Western Hemisphere, in violation of Soviet assurances and in defiance of American and hemispheric policy, this sudden clandestine decision to station strategic weapons for the first time outside of Soviet soil, is a deliberately provocative and unjustified change in the status quo which cannot be accepted by this country, if our courage and our commitments are ever to be trusted again by either friend or foe.

Subsequently, when I learned that the Russians had reneged on their promise to take their military forces out of Cuba, I expressed regret that we appeared to be yielding in our determination to enforce our historic Monroe Doctrine, under which, of course, we promised to keep out of the foreign affairs of nations of the Eastern Hemisphere if they kept out of the foreign affairs of the nations of the Western Hemisphere.

Naturally, it gratified me when President Johnson recently told our Nation and the world:

The American nations cannot, must not, and will not permit the establishment of another Communist government in the Western Hemisphere.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the leading editorial of the Richmond Times-Dispatch of May 4—which, incidentally, has the largest circulation of any morning paper in the State—commending the prompt decision of President Johnson not only to protect the interest of our nationals in Santo Domingo, but also to enforce the Monroe Doctrine in that or in any other country of the Western Hemisphere, the government of which might be threatened by some foreign power.

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

PRESIDENT JOHNSON IS RIGHT

"Gunboat diplomacy" and the sort of intervention by U.S. marines which took place 40 or 50 years ago in the "banana republics" of Latin America, are inevitably brought to mind by recent events in the Dominican Republic.

But President Johnson's steady buildup of marines and Army paratroopers in that distraught Caribbean island has no real relationship to the interventions of half a century ago. Karl Marx and his revolutionary doctrine were hardly a gleam in the eye of Sandino, for example—the "bandit" pursued by our men through Nicaraguan jungles back in the 1920's. Soviet Russia, in that distant day, was barely able to avoid collapse, and the Chinese Communists were a mere handful of helpless agitators led by an obscure individual named Mao Tse-tung.

But today the picture in the Caribbean and the rest of Latin America is totally different. Communism has got a firm foothold in Cuba, although President Kennedy

vowed that this would never be allowed to happen. As long as that situation exists, the United States is threatened with being almost blasted off the map by nuclear missiles based on that island.

President Johnson is absolutely correct, therefore, in saying:

"The American nations cannot, must not and will not permit the establishment of another Communist government in the Western Hemisphere."

The difficulty seems to be to get the other members of the Organization of American States to join us in stamping out this infection before it spreads. For let it be clearly understood that if the Reds are permitted to take over control of the Dominican Republic, these infiltrators, saboteurs and guerrillas will soon get control of other areas of Latin America. And all in the guise of "democracy," "freedom" and "national liberation."

President Johnson and his advisers have listed some 58 known Communist agents, many of them trained under Castro, who have been leading the bloody uprising in and around Santo Domingo. There is nothing surprising in this. On the contrary, it would be astounding if these professionally trained Red revolutionaries were not operating in that atmosphere of pillage and murder.

If the Organization of American States will heed the appeal of the United States for the creation of an inter-American peace force to help restore law and order in the Dominican Republic, that will be the ideal solution. All of us would greatly prefer to have this a cooperative effort, to the end that stability and order might be restored by the OAS, rather than by the United States.

Every effort to that end is being made. But if it turns out that too many of the Latin American governments have swallowed Red propaganda about the "imperialist United States" for any joint action to be possible, then we shall have to go it alone.

This will be an unpleasant and hazardous task. But it will be less unpleasant and less hazardous than the alternative of letting communism get another firm foothold in this hemisphere.

U.N. SERVANTS FOR PEACE

Mr. JAVITS. Mr. President, an article in the September 1964 issue of the monthly report of the United Nations High Commissioner for Refugees has recently come to my attention. This article recounts the circumstances surrounding the death of François Preziosi, who was the representative of the High Commissioner in Bukavu, the Congo, and Jean Plicque, who was chief of the International Labor Organization zonal development project in Kivu Province, both international public servants who gave their lives to the cause of international peace and an effective United Nations. These men were killed by a rebel officer while they were attempting to prevent Rwandese refugees from becoming involved in subversive political activities and to protect the refugees from harsh treatment by the provincial authorities. 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:

GREATER LOVE HATH NO MAN—PREZIOSI AND PLICQUE KILLED IN MAMBA

The death of Mr. François Preziosi, the High Commissioner's representative in Bukavu, and Mr. Jean Plicque, ILO chief of the zonal development project in Kivu, on August 17 while traveling to a refugee settlement in the Kivu Province of the Congo, has caused profound shock and grief in Geneva.

The circumstances under which they were killed can only be placed in perspective by taking into account the political situation in the Kivu Province.

With the approach of the rebels, provincial authorities became increasingly harsh in their treatment of Rwandese refugees whom they suspected of being a subversive element. This attitude in turn engendered a feeling of insecurity among the refugees and thus worked in the interests of those attempting to enlist them for the rebel cause. In this atmosphere of mutual suspicion and distrust, tension mounted between the refugees and officials in the Kivu, notwithstanding Mr. Preziosi's constant efforts on the one hand to discourage arbitrary action by the authorities and on the other to keep reminding the refugees that as guests in a foreign land they must refrain from all political activity directed against the established government. Mass arrests in the Bukavu area began on August 11. Mr. Preziosi immediately intervened with the Congolese officials to bring the prisoners, numbering some 300, food and water and to arrange for their release and transfer to the Kalonge district some 40 miles away. However, the local chief (Mwami) of Kalonge was loath to accept them because he claimed that among the 3,000 refugees already settled in his region, there were elements who were showing sympathy for the rebel cause. He named five persons living in the refugee center of Mamba as the main agitators.

In order to allay the Mwami's misgivings and to convince him to take the group imprisoned in Bukavu, Mr. Preziosi resolved to go to Mamba on Monday to seek out the five so that they could be questioned by the Mwami. At the same time he intended to remind all the refugees in the camp not to become involved in subversive political activity of any kind.

Just before leaving, he dispatched the following cable: "Yesterday met Mwami Kalonge who stated trouble developed in his area in which apparently refugees involved. This may again lead to harsh measures. Am going there investigate. Hope be back tonight."

As Mr. Preziosi was setting out, Mr. Plicque, who also knew the camp from the work that he was doing in connection with the zonal development plan in that area, volunteered to accompany him.

Press reports from Leopoldville on what transpired when their car was stopped on the road to Mamba were based exclusively on the account of the driver after he had escaped from the scene of the attack.

Further information has since been collected, partly as a result of a mission of Mr. Warren A. Pinegar, Deputy Director of Operations, who was sent from Geneva on August 18 to help bring to light all information bearing on this tragic event. In addition separate reports based on interrogations of a large number of other witnesses were submitted in the first week of September by the ILO Chief of Mission in the Congo and by UNHCR's regional office in Bujumbura, Burundi. Thus it is now possible to reconstruct what happened with more accuracy and with greater detail.

It is now clear that Mr. Plicque and Mr. Preziosi encountered an organized rebel detachment of 45 armed men led by a commandant and an officer. This unit had come to Mamba with the express purpose of persuading the refugees to join the rebel forces.

At the very moment when Messrs. Plicque and Preziosi reached the camp, the commandant was haranguing the refugees but with apparently little effect apart from a handful of agitators, presumably those that the Mwami had complained about. The mass of the refugees remained indifferent and some, fearing reprisals, were already moving away. The arrival of the two United Nations officials, whose mission was precisely to deter the refugees from being drawn into political activity of any kind, ran directly counter to the aims of the commandant. Moreover, the presence of Messrs. Plicque and Preziosi constituted a security risk, since upon their return to Bukavu they could report the unit's location.

When the car was stopped, Messrs. Plicque and Preziosi, the driver, and the representative of the Mwami, who was also in the party, got out of their own accord to show their peaceful intent. All four, however, were immediately taken into custody. The driver and the Mwami's representative were forced to kneel down and throw their identification papers on the ground.

When the driver spoke up to explain that his employers were on a strictly humanitarian mission, some of the refugees supported him and shouted out that they were friends who had done nothing but good. However, the commandant cut short these entreaties, and attention was turned again to the two officials. Mr. Plicque, despite his protests that he and Mr. Preziosi were only there to help the refugees, was machinegunned by the commandant, and a rebel soldier pierced his chest with a bayonet. Mr. Preziosi at that moment made a move to escape and was slain by a single blow of a machete wielded by the rebel officer. In the uproar, both the driver and the representative of the Mwami managed to flee.

The commandant drove the United Nations vehicle off the road and put the keys in his pocket. These were recovered subsequently when he was killed while Congolese troops were hunting down the rebels including some 50 refugee sympathizers in the Kalonge area.

When the driver reached the house of the Mwami after his escape, he was immediately taken to Bukavu and interrogated by Congolese authorities and by Mr. Johan Kunitzberger, the officer handling administrative matters in the Bukavu office of the United Nations Civil Operation in the Congo (UNOC). Efforts were made at once to determine the fate of Messrs. Plicque and Preziosi, but fighting in the area prevented government patrols from penetrating to Mamba. It was only on August 29 when conditions had become more calm that the Mwami said he had learned where the bodies of the two officials were buried. A search party headed by Dr. Faustino Doglio of the World Health Organization, then the ranking official in Bukavu, set out the same day and soon discovered the bodies, which had been buried with some care in Mamba camp.

Thus taking all known factors into account, it is clear that the overwhelming majority of the refugees who saw Messrs. Preziosi and Plicque being killed had nothing to do with their death and that, on the contrary, many tried to intercede in their favor. Entire responsibility devolves on the commandant, whose brutal action was obviously motivated by the wish to eliminate both a military risk and a threat to his aim of winning over the refugees.

It is assumed that the refugees took the initiative of burying the two victims since their valuables, including wedding rings, were intact when the bodies were recovered.

At the same time, the inquiry has brought out even more forcefully the high sense of duty of Mr. Prezoisi and of Mr. Plicque who accompanied him. Far from setting out imprudently they were fully aware of the grave risks involved but considered it their overriding obligation to proceed nonetheless with their efforts to assure the noninvolvement of the refugees.

The funeral was held in Bukavu Cathedral on Monday, August 31, in the presence of Mrs. Plicque and Mrs. Preziosi. They had been waiting in Bujumbura. Mr. Pinegar, the President of the central Kivu Province,

the Governor of Bukavu, as well as local United Nations and diplomatic representatives, also attended the interment, which took place in a mission cemetery near Cyangogu just across the frontier in Rwanda.

Messages of sympathy have been received from U Thant, representatives of governments on the Executive Committee of the High Commissioner's program, colleagues in UNHCR, United Nations agencies, voluntary agencies, and many individuals.

Dr. Moïse Tshombé, Prime Minister of the Congo, sent a particularly warm cable of condolence on behalf of himself and the government.

Mr. Preziosi, who would have been 43 on August 19, had been the High Commissioner's chargé de mission in Bukavu since the beginning of 1963. His task was to protect some 60,000 Rwandese refugees in the Kivu Province of the Congo and to supervise measures being taken to settle those in need of international assistance. During this period, he acquired a reputation for the vigor with which he carried out his duties and for his tenacity in protecting the refugees against repressive action. At the same time he had won the confidence and respect of the provincial officials. Thus when increasing instability in the Kivu led authorities to impose further restrictions on refugees, including imprisonment, Mr. Preziosi felt that he could play a useful role by remaining at his post, and continuing to defend the interests of the refugees. Since Mr. Preziosi's death, reports from UNHCR's regional office indicate that refugees whose release Mr. Preziosi was trying to arrange remained in jail and that many did not survive.

In the first week of September when it was reported that 500 refugees were still in jail in the Kivu, Mr. Fritz Pijnacker-Hordijk, of the Bujumbura office, was assigned to Bukavu. Like other United Nations personnel, his living quarters are across the frontier in Rwanda some 7 miles away, and his movements in the Bukavu area are governed by considerations of personal safety. Apart from trying to assure that the refugees in prison are adequately fed, he has continued Mr. Preziosi's efforts to keep outside influences of any kind from threatening the well-being of the refugees and jeopardizing the efforts of the international community to settle them.

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE SITUATION IN THE DOMINICAN REPUBLIC

Mr. MANSFIELD. Mr. President, the situation in Santo Domingo continues to be dangerous and difficult. Innocent persons are still being killed by random bullets and sniper fire. There are reports of an epidemic of dysentery, and an outbreak of cholera is a strong possibility.

U.S. military forces, now numbering 14,000 are risking their lives daily; at least 7 have already died and scores have been wounded. A great many Americans and other foreign nationals have been evacuated, but thousands are still in danger of being caught in the crossfire of the conflict.

The cease-fire, sought initially through the good offices of the Papal Nuncio, Msgr. Emanuel Clarizio, has not yet been firmly established. But his efforts have now been supplemented by those of the OAS five-nation commission and Secretary General Mora. It is my understanding that this inter-American group is in touch with the leadership of the various sources of the Dominican conflict and has been making some progress toward a cease-fire, although an end to the fighting has not yet been brought about.

The Council of the Organization of American States has been meeting daily since last Tuesday, and while agreement was reached to send the Commission under Secretary Mora, the U.S. proposal to inter-Americanize foreign troops in the Dominican Republic has not yet been approved. This would seem to me to be an essential step if the inter-American system is to be effective and is to prevail in this situation. I do not think a great deal in the way of manpower would be required to carry out this resolution. A company of 300 men from each Latin American nation under its own officers and general OAS command may well suffice, and this Nation could offer to provide emergency logistical support, if necessary.

It would be my hope that the Organization will act rapidly on this U.S. proposal. Once there is an inter-American force on the scene, and a cease-fire has been achieved, I would hope that a temporary OAS trusteeship could be established which would concentrate on holding free and fair elections within 30 to 90 days.

I think we in this Nation and the Latin American nations should be clear on one point: The President of the United States has no desire to keep a unilateral U.S. force in the Dominican Republic one day longer than absolutely necessary. The prompt establishment of an inter-American military force would go a long way in permitting us to terminate this difficult responsibility.

I am pleased to note reports that both Brazil and Argentina have announced their willingness to send troops to the Dominican Republic as soon as the OAS approves such an action. I would hope that other Latin American nations will follow the lead of these two great nations in announcing their willingness to make forces available to help stabilize this critical inter-American situation.

I would hope, as well, that all the Latin American Ambassadors in Santo Domingo would join with the U.S. Ambassador or vice versa, and the OAS commission, in assisting in bringing about an effective cease-fire. I well understand the sentiments expressed by Mexican Foreign Minister Antonio Carillo Flores when he said:

> We cannot help but comment that, for whatever humanitarian reasons the Government of the United States has invoked, that it was considered necessary to resort to so sorrowful a thing in memory. As a consequence we hope that the presence of U.S. marines in the Dominican Republic will be the briefest possible.

I can assure him that his hope for the briefest possible presence of American forces is one which is shared by the President of the United States. The President's decision to send them in was taken with great reluctance and only when it became apparent that such an action was essential to safeguard the lives of U.S. citizens and other American nationals as well as foreigners from the rest of the world.

The President has made it clear that U.S. forces are not there to intervene in Dominican politics. The politics of the Republic are matters for the Dominican people alone to resolve, and I hope that it will be possible to do so at the earliest moment. All reports indicate that the U.S. forces have acted with caution and discretion and, in fact, have avoided taking sides in the revolution. They have performed an essential service in evacuating and safeguarding non-Dominicans, and they have been a significant factor in enabling the Red Cross to do its great humanitarian work among the injured and in attempting to prevent the spread of pestilence.

There are grounds for grave concern not only for us but also for all Americans of this hemisphere over the Dominican developments. If there was ever a time when precipitous judgments should be eschewed here and in the other American Republics, it is now. The need is for cool heads, for restraint and for the most measured and carefully designed inter-American action. At stake is not only the hope of the Dominican people for a responsible, stable, and decent system of free government, but also the efficacy of the inter-American system which has been a century in building. The situation in the Dominican Republic is in every sense a hemispheric responsibility. The OAS must have every opportunity to meet that responsibility. It must not fail to meet that responsibility.

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

Mr. MANSFIELD. I am delighted to yield to the distinguished senior Senator from Vermont.

Mr. AIKEN. Mr. President, as usual, the statement of our majority leader is very timely and important. It appears that the situation in the Dominican Republic came to the attention of most of the country, at least, unexpectedly. One thing I would like to point out, however, is that the situation in the Dominican Republic cannot be considered in the same light as the situation in southeast Asia. In the case of the Dominican Republic the President had to act quickly. I do not know to what extent he advised other Western Hemispheric nations that he was taking this action. Certainly they found it out soon afterward. I believe there was no time for the convening of the Organization of American States and getting that Organization into action if the people not only from the United States but from many other countries were to be protected in the Dominican Republic.

I think, however, that we may have been a little callous with regard to this

small Republic, which has only 3 or 4 million people. The economy of that country has apparently been deteriorating. The fall of the world sugar market dealt them a tremendous blow.

Several weeks ago I read that the biggest sugar plant, at Campinas, had been closed and the largest sugar plantation in the world had been closed. I have also heard that other employers had laid off their employees.

Any rebellion must have something to feed on. Unemployment is what it feeds on best. It seems to me that that is a situation that precipitated or hastened the rebellion in the Dominican Republic.

I am glad to hear that other countries in the Western Hemisphere are indicating a willingness to participate in restoring a workable government in that country. The OAS should contribute to the best of its ability in establishing such a restoration. I realize that it would be impossible to get the member nations of the OAS to unanimously agree to make a contribution of men or equipment or anything else, because some of them have, I believe, a very sincere policy against becoming involved in the affairs of any other country.

I hope, now that we are undertaking not only to restore order but also to reduce hostilities to a minimum in that area, that we will do it as soon as possible. When that is done I suggest that we pay more attention to the economy of that country. I suspect that we could have headed off this rebellion had we been fully aware of the effects of the depression which was affecting this country. Those people have to live, they have to eat, and they have to work. I know that we have criticized Trujillo, but while he was the dictator, the country was quite prosperous. No corporation was permitted to lay off its help without having an excellent reason for doing it. They had to get permission to lay off their help. Conditions are changed now. The situation was ripe for rebellion.

I do not undertake to say just what should be done, because the situation is in a state of flux.

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

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. I ask unanimous consent that we may proceed.

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

Mr. MANSFIELD. Before I yield to the distinguished Senator from New York, I should like to say, as always, that the distinguished Senator from Vermont, the senior Republican in the Senate, has made a significant contribution. The Senator from Vermont [Mr. AIKEN] has a special interest in Latin American affairs. He issues reports from time to time which in my opinion are "must" reading for anyone who wants to have a better understanding and a deeper understanding of the areas which he has visited.

What he has said about unemployment in the Dominican Republic is absolutely correct. One of the reasons why the late chief of state, Donald Reid Cabral was overthrown, I believe, was due to the fact that he tried to institute an austerity program. When that is done, on an economy which is drastically hurt, a situation is created which is very difficult to overcome.

I think it should be said in all honesty that beginning a week ago Saturday, I believe, when the revolution broke out, our Government established contact with the OAS and on its own initiative and through the OAS urged with others that this affair be brought up for consideration, and in that manner performed its function as a member state.

I believe that what the Senator from Vermont has said is true; namely, that when the President took this action in dispatching American marines to Santo Domingo, the OAS was not informed, and that the President acted as he did only because of the urgency of the information sent him by our Ambassador, Mr. Bennett and various other chiefs within the American missions there.

The President felt that the need was imperative to bring about the evacuation of Americans and other nationals. It is my understanding as of this morning, based on what the President said to the membership of 6 congressional committees, that there were approximately 5,000 nationals, other than Dominicans, still in the Republic, and that of the 5,000, 1,500 were Americans.

It is my hope that, as the Senator from Vermont has indicated so ably, the OAS would assume its responsibility and recognize that this is not a U.S. problem but an inter-American problem, and in doing so I would hope they would consider the possibility of setting up a trusteeship down there under OAS auspices and creating an inter-American police force, to which each nation, including the United States, would contribute 300 men; and that the officer in command of such a force would be other than an officer from this country.

I would also like to see a greater degree of collaboration between the ambassadors of the American States, so that, instead of one country, like our own, acting unilaterally in Santo Domingo, all the American ambassadors there would get together and consider matters cooperatively.

These are factors which I am sure are being given every consideration.

With that premise, and in response to the observations made by the distinguished Senator from Vermont, I am ready to yield to the distinguished Senator from New York.

Mr. AIKEN. Mr. President, may I have 1 more minute?

Mr. MANSFIELD. Please.

Mr. AIKEN. Mr. President, the President of the United States had to act quickly in sending the Marines into the Dominican Republic to prevent the loss of life. I am sure of that. Now that the situation is as it is there, and we have 14,000 members of our Defense Establishment in the Dominican Republic, I earnestly hope that the President will not try to tie the South Vietnam situation and the Dominican Republic situation together, because they are very distinct from one another.

VOTING RIGHTS ACT OF 1965

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The LEGISLATIVE CLERK. A bill (S. 1564) to enforce the 15th amendment of the Constitution of the United States.

THE SITUATION IN THE DOMINICAN REPUBLIC

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the present discussion of the Dominican Republic situation may continue for 10 minutes.

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

Mr. AIKEN. Mr. President, while the action of the Dominican Republic is quite generally supported by the public of the United States, I believe that the operations in southeast Asia enjoy considerably less approval. Therefore, I hope that the President does not try to tie those two situations together, because they are distinct.

Mr. MANSFIELD. They are two separate entities.

Mr. AIKEN. That is correct.

Mr. MANSFIELD. I yield to the distinguished Senator from New York.

Mr. JAVITS. I thank the Senator. I have a rather important question I should like to ask the majority leader. First, I should like to qualify myself by saying that I was one of those who went to President Bosch's inauguration with our now Vice President HUBERT H. HUMPHREY. I also tried to help the Bosch regime by arranging for 1,500,000 doses of antipolio vaccine to be sent to his country. The vaccine was sent free, including the transport by Pan American Airways, and the doses were actually administered through the efforts of the U.S. Public Health Service to the children of the Dominican Republic, in the hope of buttressing that regime.

The point that is troubling me and, I believe, many others, concerns the question of not taking sides, which the Senator mentioned specifically in his very fine and typically thoughtful statement.

The President has announced that we are in the Dominican Republic in order to save Americans, to save other nationals, and to prevent a Communist takeover. I thoroughly agree with the President about preventing a Communist takeover—which assumes that there is danger of one. I also agree with the Senator with respect to the OAS and all the procedures which he has outlined.

But I should like to ask the Senator a question. The Senator said—and I think I heard him correctly—that we must eschew immediate judgment in this situation. Does the Senator, who as majority leader is of great importance in these discussions, feel that the door is open for the United States to withdraw from the situation, considering the attitude that may be adopted by the OAS and knowing what so many of us do know about what evidence there is—at least so far as it has been reported to us—of the likelihood of a Communist takeover? In other words, if we eschew immediate judgment, may

not our judgment be to stay in? I must say to the Senator right now that I am all with the President, as I have always been, when we were in a tight spot. I am with him now, and I pledge that. But I ask the Senator whether, in his judgment, we really have freedom of action in this situation, notwithstanding what has been said and done already. If the Senator feels that we do, I believe it would make a very great difference in how the whole situation is regarded.

Mr. MANSFIELD. Mr. President, because of circumstances, our freedom of action is very limited. That is why I have emphasized several times my hope that the OAS would assume its responsibilities and step in and take over some of the responsibility, thereby relieving us of the unilateral responsibility which is ours, and transferring the burden of finding a settlement to the situation in Santo Domingo onto the shoulders of the Organization which ostensibly is charged with concern for the welfare of all the States of the Americas. Whether or not that can be done I do not know. There are several resolutions in the OAS which will be considered today and tomorrow. Perhaps out of those three or four resolutions will come a composite resolution combining the best in each to the end that a settlement may be arrived at.

The Senator has mentioned President Bosch, who was deposed by the coup d'etat which was led by a triumvirate, which included Wessin y Wessin, the deposed chief of state Donald Reid Cabral, and one other individual whose name I cannot recall at the present moment. It is my understanding—and this is subject to a good deal of verification because I cannot vouch for it—there was a report this morning to the effect that the Dominican Congress had assembled and had indicated that it would like to see Col. Francisco Caamano Deno, who seems to be the leader of the pro-Bosch forces in the older part of the city of Santo Domingo, become the President on an interim basis. Whether there is anything to that or not, I have no verification. It is a rumor which I have picked up. But there again I hope that it will be possible, if any action of the kind proposed is undertaken, for the OAS to participate in it as fully as possible.

Mr. JAVITS. Mr. President, will the Senator yield to me so that I may ask another question?

Mr. MANSFIELD. I am delighted to yield.

Mr. JAVITS. Would the Senator say—and I am not trying to put words in the Senator's mouth, but attempting to see if I understand the Senator correctly—that the policy of the United States today is in the following three parts:

First, to guarantee the security, so far as we can, of our own nationals and other foreign nationals there?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Second, to prevent another Communist takeover in the Western Hemisphere?

Mr. MANSFIELD. That question has been raised.

Mr. JAVITS. Third, to turn over this responsibility at the earliest feasible moment to the Organization of American States with full relinquishment on our part and no strings?

Mr. MANSFIELD. Yes.

Mr. JAVITS. I thank the Senator. I think that is very important.

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

Mr. MANSFIELD. I yield.

Mr. HOLLAND. I commend the distinguished majority leader and other Senators who have spoken on this subject. Their speeches have been most timely. I am not on the Foreign Relations Committee, but I happen to live in a State that is closer than any other State to the trouble in the Dominican Republic and to Latin America generally. We are very close to our Latin American neighbors and there are many ties between our State of Florida and Latin America.

I wish to accentuate two points. First, the distinguished majority leader spoke of the need of action by the Organization of American States. I believe that the existing crisis is the acid test of the usefulness of the Organization of American States. If other member nations can find it in their hearts and consciences to respond fully and to furnish armed troops to set up an inter-American command to make it clear that they will stand with our country in repelling either invasion or this newfangled sort of intervention, which is by infiltration, and then by guerrilla warfare, I think it will not only be a fine thing in ending this particular troublesome situation, but also it will be a very fine and promising development for the future. It will give stature to the Organization of American States which it has never had and which is very badly needed. It will probably result in Canada asking for membership. Senators will remember that Canada has been willing to send her troops with peacekeeping forces in various parts of the world when she has been called upon by other bodies.

Mr. MANSFIELD. By the United Nations.

Mr. HOLLAND. Yes. My own feeling is that the Organization of American States is presented with an acid test. I was glad to hear that Secretary General Mora, for whom I have a great deal of respect, responded immediately and went down there.

I was glad to see that, in spite of a little reluctance, a committee of five members was organized without too great delay representing five of the Latin American countries, to go to Santo Domingo and be there on the ground as a stabilizing factor. I hope that the result of that Organization's presence will be the activation of the Organization of American States in a way that has not existed heretofore, but that is very badly needed.

Before I end that point, I wish to say that considering the room for suspicion that our good friend, the Republic of Mexico, has in looking at us, remembering all the things that have happened in the past, I thought the remarks of the distinguished Foreign Minister, Mr. Flores, who was Ambassador to the United States not so long ago, were decidedly temperate and that we should highly appreciate them.

Mr. MANSFIELD. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I am glad to yield.

Mr. MANSFIELD. I would agree with what the distinguished senior Senator from Florida has just said. The remarks made by the Foreign Minister of Mexico, Antonio Carrillo Flores, certainly were, in my opinion, temperate and understanding in relation to what has happened to his country and to other countries rimming the Caribbean over past decades.

Mr. HOLLAND. I thank the distinguished majority leader.

My second point is this: We would be very wise if we brought Puerto Rico and the Puerto Rican people into this matter as speedily and as actively as possible. If there is to be participation in a permanent inter-American force, it would be my suggestion, made out of an abundance of ignorance as to many of the details, that the Puerto Rico National Guard be used. I have seen units of the Puerto Rico National Guard. They are well trained. I believe they would acquit themselves well. They are neighbors of the Dominican Republic. They speak the same language. Not only would they acquit themselves well; they would receive from the beginning a great amount of good will from the people who must be somewhat suspicious—the people of the Dominican Republic.

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

Mr. HOLLAND. I am glad to yield.

Mr. MANSFIELD. Without giving the matter careful thought, the proposal to have Puerto Rico join the 19 American States to comprise an Inter-American Peace Force seems to have substantial foundation. They are Spanish-speaking people who would fit in very well with the nations of the hemisphere and could well help to represent the United States in such an organization.

Mr. HOLLAND. I thank the distinguished Senator from Montana. I offer the suggestion merely for consideration by those who will have a chance to consider the intimate facts better than I can here.

Second, former Governor Muñoz-Marín is a person who has established himself as a real statesman, who has shown his independence in many ways concerning our way of thinking in this country, and yet has insisted upon his country becoming a permanent part of the United States, having commonwealth status. If a consultative body or an advisory group, or something of that sort, is to be established in the Dominican Republic, I suggest that we not overlook the fact that we have in Puerto Rico, headed by former Governor Muñoz Marín, several well-trained statesmen who can represent this country with ability and who, at the same time, will be recognized as having the ability to talk the same language. I am speaking not only in terms of the words they use; but they would have the same Latin American viewpoint. Many of them are Spanish-Americans. Some, of course, in Santo Domingo are French-Americans.

Some, from Brazil—and I am glad to observe that Brazil has already responded helpfully—are Portuguese-Americans. But they would be recognized as a part of the great Latin-American group who number more in their total population than we have in the United States.

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

Mr. HOLLAND. I yield.

Mr. MANSFIELD. Again, the Senator from Florida has made a noteworthy contribution. I fully approve of the idea that such contacts should be established—and I feel certain they would be—with such men as former governor, now Senator Muñoz-Marín; with Romulo Betancourt, former President of Venezuela; and with Jose Figueres, former President of Costa Rica; and I would hope also with a man who served with distinction in the Department of State as Deputy Assistant Secretary of State for Inter-American Affairs, Dr. Arturo Morales-Carrion. Dr. Morales-Carrion is one of the outstanding scholars of hemispheric affairs with a distinguished record and reputation not only in Puerto Rico and the United States but throughout the Americas. All of these men could serve as a bridge in our understanding of the rest of the hemisphere. All of them are men of great distinction, who have made contributions to the betterment of their countries and the hemisphere as a whole.

Mr. HOLLAND. I thank the distinguished majority leader.

I close by saying again that I believe this is a magnificent opportunity, as well as an acid test, for the Organization of American States. I hope that that Organization will rise to the opportunity and fulfill its high potentialities. It can become a most useful, strongly effective, and highly respected body, which it has not always been in the past. I want it to become such a body.

Mr. MANSFIELD. Yes; I agree with the distinguished Senator from Florida. We want mutual respect with them; we want a mutual assumption of responsibility; we want them to take their proper role in the affairs of the hemisphere as a whole.

Mr. ELLENDER. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. ELLENDER. I am in thorough accord with what my good friend from Florida [Mr. HOLLAND] has just said about the OAS. Now is the time for it to exhibit its capabilities as a peacemaker. It must not fail us. It should be in the forefront in an effort to bring about peace in Santo Domingo. I do not intend at this time to restate my views in respect to both Cuba and the Dominican Republic. I have said on many occasions that Castro should never have been recognized by us and that I thought it was tragic for the late General Trujillo to have been ousted from the Dominican Republic by way of assassination. But all of that now is water under the bridge.

I heard the President this morning; I heard him last night over the radio. From what he said, that area of the world is in grave danger at the moment. He stated that a large number of Americans and foreigners are there and must be protected. As the distinguished Senator from Florida has said, the acid test for the continued existence, and support by us, of the OAS, is near at hand. Unless the member nations are able to work together and help to ward off communism in the Southern Hemisphere, its usefulness will be questionable. We should not be compelled to carry the burden alone.

So far as I am concerned, although I have criticized what was done in Vietnam and in the Dominican Republic, the fact is, our forces are now engaged in both areas, and the time has not arrived for us to retreat. Based on the knowledge at hand I believe Congress ought to respond to the request of the President for additional funds. So far as I am concerned, that is the course I shall pursue.

Mr. MANSFIELD. I thank the Senator from Louisiana.

Mr. PELL. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield to the distinguished Senator from Rhode Island.

Mr. PELL. I congratulate the Senator from Montana on his comments and analysis of the situation. I agree with him completely and stress particularly the desirability of following through on the positive suggestions he has made for seeking equal numbers of troops from many different nations, and for the substitution, as quickly as possible, of the OAS in handling the problem.

The Senator from New York [Mr. JAVITS] brought out the fact that there is a certain lack of flexibility in the situation in which we are and that, therefore, it is doubly important to persuade the OAS to assume responsibility.

There is another point, to underline the words of the Senator from Vermont [Mr. AIKEN], and that is that the Dominican Republic is on our very doorstep. While it may not be in accordance with international law, it is generally accepted among the nations of the world that we have a particular relationship to our neighboring nations in this hemisphere. It was in recognition of this fact that the Monroe Doctrine was enunciated and accepted by the rest of the world. In addition, little nations, close to great nations are generally part of their sphere of influence. On these bases, we have taken drastic action in the past in this hemisphere. As the Senator from Vermont pointed out, it is not the same as the situation that exists in southeast Asia and the two situations are different.

Mr. MANSFIELD. I agree with the Senator.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). The Senator will state it.

Mr. MANSFIELD. What is the pending business?

The PRESIDING OFFICER. The pending business is the Voting Rights Act of 1965, S. 1564.

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

The PRESIDING OFFICER (Mr. CARLSON in the chair). Without objection, it is so ordered.

VOTING RIGHTS ACT OF 1965

The Senate resumed the consideration of the bill (S. 1564) to enforce the 15th amendment of the Constitution of the United States.

Mr. STENNIS. Mr. President, I shall address myself primarily to S. 1564, which is the original bill before the Senate, with reference to the so-called voting rights question, and refer to various parts or all of the pending matters of the original bill, and then the proposed substitute, as well as the Ervin amendment.

First I wish to address myself quite briefly to the proposition of the rights of the States, and the governing bodies of the States, to impose such reasonable tests as they may see fit as qualifications of the right to vote. This has always been the rule and there is no room in our Constitution for any other rule.

I refer, too, to the statement made once by Thomas Jefferson, who said that a nation cannot be both ignorant and free.

To try to outlaw and abolish completely a literacy test with reference to voting is not only directly contrary to the Constitution of the United States, but is contrary to commonsense itself. It is a matter far beyond the purview of the Congress to impose such limitations. I hope this debate will fully show it, and that the final votes will fully prove, as they have in years heretofore, the wisdom of that principle.

This bill, S. 1564, as we know, was drafted in the atmosphere of massive public demonstrations, introduced in the Senate on March 18, and referred to the Committee on the Judiciary with instructions to report back by April 9. Under such limitations, it was necessary that the committee hold only a few days of hearings and then frantically meet in executive session to report a bill. On several occasions, reports reached the public that a revised or substitute version had been agreed upon by a majority of the committee; then before that substitute could hardly be printed, numerous amendments would be offered thereto. Finally, upon the last day in which the committee had to consider this measure, what may well be called a "conglomerate" bill was put together and reported to the Senate.

Of course, now a substitute to the one reported by the committee has been offered to the Senate.

The result of this process is that we now have before the Senate as the pending business an almost new bill on which, in effect, there have been no committee hearings. New provisions are included in the bill on which no testimony was received during the short hearings on

the original bill, and other provisions have been modified to the extent that the testimony which was received really is not applicable. Even the proponents of this bill on the committee have been reported in strong disagreement on some of its new provisions. Although the purpose of committee consideration is to clear up these disagreements and remove any constitutional questions, I believe it fair to conclude that the reported bill is more objectionable than the original proposal.

Why has the Senate resorted to this kind of procedure? Why is it now willing to legislate in this atmosphere? The answer is found in the great wave of emotionalism that has been sweeping the Senate, and the country, too, to a degree, until a few days ago when the situation in the Far East and South America became so acute with reference to the actual hostilities in which we are now engaged.

Out of the public demonstrations has arisen a demand that Congress act and act now, because we are told that a great need exists—that the privilege of voting in this country cannot be secured and administered fairly without the passage of this additional proposed legislation. But the existence of a need or problem, whether real or supposed, is not sufficient basis for legislation, Mr. President. Before Congress can enact a law to meet any need, there must be a grant of authority for such action, and that authority can be found only within the four corners of our basic law, the Constitution of the United States.

The Supreme Court has expressed this principle on many occasions and has never upheld the validity of any act of Congress simply because it sought to accomplish a desired result. In the famous case of *Carter* v. *Carter Coal Co., et al.*, 298 U.S. 238, 56 S. Ct. 855, 80 L. Ed. 1160 (1936), for example, the Court spoke of its duty to determine the constitutionality of legislation and stated:

> In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. (298 U.S. 238, 297.)

In *Linder* v. *United States*, 268 U.S. 5 (1924), the Court clearly stated that:

> Federal power is delegated, and its prescribed limits must not be transcended even though the end seems desirable. (268 U.S. 5, 22.)

It is true, of course, that within constitutional bounds, Congress is free to enact any legislation which is reasonably adapted to meeting a problem. Attorney General Katzenbach, in his testimony before the House and Senate Judiciary Committees on S. 1564, gave great weight to the fact that the means chosen by Congress to accomplish a desired result are solely a matter of legislative discretion. This is certainly true, but it is valid only to the point that Congress does not exceed the grant of its constitutional authority. In declaring unconstitutional the Railroad Retirement Act of 1964, the Supreme Court very concisely stated:

> The fact that the compulsory scheme is novel is, of course, no evidence of unconstitutionality. Even should we consider the act unwise and prejudicial to both public and private interest, if it be fairly within delegated power our obligation is to sustain it. On the other hand, though we should think the measure embodies a valuable social plan and be in entire sympathy with its purpose and intended results, if the provisions go beyond the boundaries of constitutional power we must so declare. (*Railroad Retirement Board, et al.*, v. *Alton Railroad Co., et al.*, 295 U.S. 330, 360 (1935).)

It is very clear, Mr. President, that the purpose of legislation, no matter how desirable or necessary, does not alone justify congressional action. Concurrent with that purpose there must be constitutional authority. In my opinion, S. 1564 does not meet this test. I believe it can be clearly demonstrated that this bill not only exceeds the authority of Congress but also is directly contrary to many principles of our system of government. In order to substantiate this conclusion, I will first discuss the constitutional provisions dealing with voting qualifications and elections; consideration will then be given to the specific provisions of S. 1564.

It is axiomatic that the Federal Government has only those powers delegated to it by the Constitution. Absent an express or implied grant of authority, there is no Federal power. On the contrary, the respective States are the repositories of residual power; that is, authority not given to the Federal Government, nor denied to the States, remains in the States or in the people without enumeration in the Constitution. The 10th amendment forever sets this proposition at rest. Further, the doctrine was given clear enunciation in Carter against Carter Coal Co., et al., supra, wherein the Court said:

> The general rule with regard to the respective powers of the Constitution is not in doubt. The States were before the Constitution; and, consequently, their legislative powers antedated the Constitution. Those who framed and those who adopted that instrument meant to carve from the general mass of legislative powers, then possessed by the States, only such portions as it was thought wise to confer upon the Federal Government; and in order that there should be no uncertainty in respect of what was taken and what was left, the national powers of legislation were not aggregated but enumerated with the result that what was not embraced by the enumeration remained vested in the States without change or impairment (298 U.S. 238, 294).

Applying this principle—and there is no dissent from that principle—to the question of voting, it is clear beyond doubt that only the respective States have the authority to establish the qualifications of voters. The following specific provisions deal explicitly with this question:

I refer to article I, section 2, of the Constitution.

Mr. President, before I read from that section of the Constitution, let me point out with all the emphasis I can—and I do not believe the position will be contradicted—that the proponents of the proposed legislation are trying to make an exception to the extent of suspending the application of the general rule. Legislation has come before the Senate which contradicted the general rule, but this is a new approach. The proponents say, "We will suspend" the constitutional powers of certain States to establish voter qualifications. I submit that that is a more dangerous doctrine than the one which seeks to contradict outright and thereby repeal a provision of the Constitution of the United States, because the mischief to be performed will be greater. Unless we are on guard, the effort to accomplish that end by enactment of the proposed legislation might be made easier and the legislation more possible.

Therefore, I believe that we should be on double guard. There is no such thing as suspending the operations of the Constitution of the United States. That is for a dictator to seek to do. He would always plead that, of necessity, in order not to contradict the Constitution, it would have to be suspended to meet various conditions.

He always wants to be the interpreter of what those conditions are. Therefore, we are now discussing plain, elemental, constitutional law, most of which has always been heretofore accepted and followed. The plain import of the bill and the chief burden of the bill is not to contradict and set aside the provisions of the Constitution of the United States, but merely to suspend the operation of it for some time.

I quote from article I, section 2, of the Constitution of the United States:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

The 17th amendment likewise states:

> The Senate of the United States shall be composed of two Senators from each State, selected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

The 17th amendment followed that identical language of the original part of the Constitution, in article I, section 2, which clearly and specifically and unequivocally states, in unmistakable language—simple and easily understood—that the qualifications requisite for electors in selecting Members of the House of Representatives and the Senate in the Federal Government shall be the same as the qualifications of electors of the most numerous branch of the State legislature. That means the State legislatures in the 50 respective States. These two provisions of the Constitution expressly provide that those who vote for Members of the House and Senate shall have the same qualifications as are required of electors of the most numerous branch of the State legislature. That is ordinarily known now as the House of Representatives.

The Constitution is silent as to the qualifications of voters in State elections, and, as the States had this exclusive power prior to the adoption of the Constitution, that power remains in the States today. This has been modified somewhat since the adoption of the original Constitution by other constitutional amendments, but this in no way infringed on the principle I am discussing.

Without question, the provisions just cited leave this power undisturbed in the States and provide that the qualifications thus set by the States for members of the most numerous branch of the State legislatures shall automatically be the qualifications possessed by electors within each State who chose the Members of the U.S. Congress. See *Ex parte Yarbrough,* 110 U.S. 651 (1883).

Until now, that has been what we call hornbook law, and has been generally accepted.

In addition, with reference to the election of the President and Vice President, article II, section 1, clause 2, provides:

> Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

There can be no argument that these three sections of the Constitution expressly and specifically grant to the States the authority to determine the qualifications of electors in all Federal elections. The only other provision dealing with Federal elections is article I, section 4, which provides that the Congress may regulate the "times, places, and manner of holding elections for Senators and Representatives." It has never been seriously contended, however, that this section gives Congress the power to establish qualifications.

Going back to the Constitutional Convention, Alexander Hamilton, in speaking of Congress' authority under this provision, stated in No. 60 of the Federalist Papers:

> Its authority would be expressly restricted to the times, the places, and the manner of elections. The qualifications of the persons who may choose, or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution and are unalterable by the (national) legislature.

The Supreme Court has also supported this interpretation of the power of Congress to regulate the times, places, and manner of conducting congressional elections. For example, in *Newberry* v. *United States,* 256 U.S. 232 (1920), the Court stated:

> Many things are prerequisites to elections or may affect their outcome—voters, education, means of transportation, health, public discussion, immigration, private animosities, even the face and figure of the candidate; but authority to regulate the manner of holding them gives no right to control any of these (256 U.S. 232, 257).

These sections are the only provisions of the Constitution dealing with the authority to determine the qualifications of voters, subject only to the 15th and 19th amendments. The 19th amendment, of course, prohibits discrimination on the basis of sex and is not relevant to this discussion. It is therefore clear that under these provisions and the Supreme Court's interpretation thereof the several States have the exclusive power, subject only to the prohibition of the 15th amendment, to decide who shall vote in both Federal and State elections and to set the qualifications which must be met. The Supreme Court has affirmed and reaffirmed this principle in many decisions. In *Pope* v. *Williams,* 193 U.S. 621 (1904), for example, the Court stated:

> The Federal Constitution does not confer the right of suffrage upon anyone, and the conditions under which that right is to be exercised are matters for the States alone to prescribe (193 U.S. 621, 633).

The Court has likewise specifically ruled that requiring all voter applicants to pass a literacy test is a legitimate and permitted exercise of the States' authority to set voting qualifications. In *Guinn* v. *United States,* 238 U.S. 347 (1915), the Court dismissed any question on this subject by stating:

> No time need be spent on the question of the validity of the literacy test considered alone since as we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision and, indeed, its validity is admitted (238 U.S. 347, 366).

Mr. President, that was the Supreme Court of the United States speaking with reference to the validity of literacy tests. A literacy test is a test of a person's ability to read and write. The Court said that its establishment was but the exercise by the State of a lawful power vested in it, not subject to the Court's supervision.

This doctrine was specifically upheld by the Supreme Court as recently as 1959 in *Lassiter* v. *Northampton Election Board,* 360 U.S. 45 (1959).

Mr. President, I emphasize those cases. The voice of the highest Court in our land has put those questions to rest.

Still the bill, in an ingenious way, would seek not to change, reverse, or repeal the law, but to suspend it for an uncertain number of years. The doctrine was specifically upheld by the Supreme Court as recently as 1959 in *Lassiter* v. *Northampton Election Board,* 360 U.S. 45, which was a case involving a literacy test in the State of North Carolina.

In a unanimous decision by the Court in 1959 the Court held—

> The present requirement, applicable to members of all races, is that the prospective voters "be able to read and write any section of the Constitution of North Carolina in the English language." That seems to us to be one fair way of determining whether a person is literate, not a calculated scheme to lay springes for the citizen. Certainly we cannot condemn it on its face as a device unrelated to the desire of North Carolina to raise the standards for people of all races who cast the ballot. (360 U.S. 45, 53).

Further, the then Attorney General of the United States, who is now a Member of the Senate, the Senator from New York [Mr. KENNEDY], while testifying to the Senate Judiciary Committee on July 24, 1963, during consideration of the then pending civil rights bill, stated:

> I think there is no question that it is in the power of the States to establish the qualifications of its voters and the State does have the authority to establish a literacy test.

That was his opinion, and I know that it was an honest opinion. Still, today, the proposal which we are discussing would tend to suspend the application of that authority. That is a new approach. That is a new door that the proponents are seeking to enter. It is a more insidious approach and a more dangerous approach than a frontal assault, because time after time, in a direct assault to try to attack he qualifications of electors in the various States of our country, they have been turned back by this body. So the proponents have apparently given up—some of them have, anyway—on that approach, and they are now trying to have that provision suspended temporarily.

The then Attorney General of the United States, Hon. ROBERT KENNEDY, was speaking for the administration before the Senate Committee on the Judiciary. I should like to repeat, for emphasis, what he said.

He said:

> I think there is no question that it in the power of the States to establish the qualifications of its voters and the State does have the authority to establish a literacy test.

The bill denies that authority. It does not change the situation one bit when it states that that authority would be suspended for some uncertain time.

At another point in his testimony the then Attorney General, who is now an honorable Member of this body—and what I have to say is no attack on our fellow Senator—under his oath as Attorney General said:

> I don't believe that the Federal Government can establish the qualifications for voting.

And, indeed, the present Attorney General, Mr. Katzenbach, affirmed these principles in testifying before the Senate Judiciary Committee on the bill now under consideration.

Mr. President, based on these constitutional provisions, decisions of the Supreme Court, and the opinions of the present Attorney General and his immediate predecessor, who now graces this Chamber as a Member, I believe all Members of the Senate will agree that the several States have the exclusive jurisdiction to determine voter qualifications, specifically including the right to establish literacy tests. This being true, let me now turn to a consideration of the only possible restriction on that authority, the 15th amendment to the Constitution.

Before proceeding immediately to that subject, I should like to add a thought with reference to literacy tests. None other than the great Thomas Jefferson, who many have said was the patron saint and real spirit of our great Government, stated that a nation cannot be both ignorant and free. That is no reflection upon someone we might call ignorant, because every person who might be ignorant has an opportunity to improve his situation, and most continue to do so. Jeffersons' philosophy, however, applies. A nation cannot be both ignorant and free.

To abolish literacy tests, which are so well embedded and which were established with good reason, is really to argue nonsense.

Constitutionally, it is more important that we do not let powers that do not exist be exercised with the idea that we are merely suspending a requirement or a test than it would be to simply abolish them. It would be more insidious and more iniquitous if a scheme should be devised whereby certain recognized principles of government could be suspended.

I want to have remedied or corrected any fault in our laws or in the administration of the laws. I know that that can be done, and it has always been done, within the Constitution of the United States. But if it cannot be done within the Constitution as it is written, we in our wisdom and consideration—the States and the people—have amended the Constitution and have adopted a course that the majority thought was sound as to any given subject.

But now it is proposed to suspend a part of the Constitution. While I might seek to suspend the Constitution today as to one provision, someone else might wish to suspend it as to another section tomorrow. That is the most dangerous sea upon which we could possibly embark. Whatever may be the background of the proposed legislation as a whole, I hope that we shall not adopt any kind of theory that could be used in this bill or any other bill hereafter by means of which the operation of the Constitution, or any part of it, could be suspended; or so that in order to carry out one part of the Constitution, it would be necessary to suspend the operation of another part. That is the most deadly and dangerous doctrine of constitutional government that I believe could be devised.

Soon after the passage of the 13th, 14th, and 15th amendments, Congress enacted a number of enforcing statutes. Likewise, the Supreme Court was quickly called upon to interpret these new constitutional protections, and from the date of its first decision in the Slaughter-House cases in 1873—the *Butchers' Benevolent Association of New Orleans* v. *the Crescent City Livestock Landing and Slaughter-House Company*, 83 U.S. 36—to the present time, the Court has without exception held that: First, the 14th and 15th amendments prohibit action of the States, but not of individuals, which deny the rights secured thereby; and second, the legislative power of Congress thereunder is limited to "appropriate legislation" designed only to prohibit violations thereof based on race or color. Any act of Congress which exceeds these specific limitations is invalid.

The 15th amendment, of course, provides that the right of citizens to vote shall not be denied "on account of race, color or previous condition of servitude." This guarantee does not enlarge the power of the Federal Government nor does it diminish the power of the States except to the extent that it prohibits voting discrimination because of race. As the Court so clearly stated in Pope against Williams, supra:

> Since the 15th amendment the whole control over suffrage and the power to regulate its exercise is still left with and retained by the several States, with the single restriction that they must not deny or abridge it on account of race, color or previous conditions of servitude (193 U.S. 621, 632).

Similarly, the 15th amendment does not create any new right on the part of anyone to vote, except that a person can no longer be denied the right to vote because of his race or color. All persons are still subject to such nondiscriminatory requirements as the several States may desire to establish. See, for example, *United States* v. *Reese*, 92 U.S. 214 (1875), which held that "The 15th amendment does not confer the right of suffrage upon anyone."—92 U.S. 214, 217. Only the States, and not the Federal Government, have the authority to determine what those requirements will be. And, indeed, this discretion on the part of the States is not subject to Federal review; the Court so held in Pope against Williams, supra, wherein it was stated:

> The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one. (193 U.S. 621, 633.)

The only limitation on this power of the States is that no one may be denied the privilege of voting simply because of race or color. That is properly so.

Section 2 of the 15th amendment gives to the Congress power to enforce the prohibition of that amendment by "appropriate legislation." In United States against Reese, supra, the Supreme Court clearly spelled out in unmistakable language that such legislation must be restricted to limiting denials based on race or color. That case arose as the result of the act of Congress of May 31, 1870—16 Stat. 140—which was designed to enforce the 15th amendment guarantee. The first and second sections of that act, respectively, provided that all persons shall have the right to vote without distinction as to race, color or previous condition of servitude, and established punishment for any officer who failed to give all persons the opportunity to vote without regard to race or color. Section 3, however, provided that the offer of any person to perform any act necessary to qualifying to register, and the subsequent act of an officer in refusing to receive or permit such performances, shall be considered performance of the act. Section 4 provided punishment for any person who wrongfully attempted to prevent any person from doing an act necessary to be done to qualify to vote. Neither section 3 nor section 4 was in any way limited to prohibiting denials of the right to vote because of race or color.

The Court prefaced its consideration of whether these two sections constituted "appropriate legislation" by stating:

> It is not to be contended, nor can it be, that the amendment confers authority to impose penalties for every wrongful refusal to receive the vote of a qualified elector at State elections. It is only when the wrongful refusal at such an election is because of race, color, or previous condition of servitude, that Congress can interfere, and provide for its punishment. If, therefore, the third and fourth sections of the act are beyond that limit, they are unauthorized. (92 U.S. 214, 218.)

The Court then examined the act of 1870 and found that sections 3 and 4 were not expressly limited to prohibiting discrimination based on race or color, and it further found that those sections were not limited by the first and second sections. The Court therefore declared the act of 1870 unconstitutional. In *United States* v. *Harris*, 106 U.S. 629 (1882) the Court states, with reference to the Reese case, that:

> The ground of the decision was that the sections referred to (secs. 3 and 4) were broad enough not only to punish those who hindered and delayed the enfranchised colored citizens from voting on account of his race, color, or previous condition of servitude, but also those who hindered or delayed the free white citizen. (106 U.S. 629, 642.)

As will be shown, S. 1564 is subject to this same determination.

These constitutional principles which I have discussed may be summarized as follows, Mr. President:

First. Prior to the adoption of the Constitution, the several States were vested with exclusive jurisdiction to regulate all elections and to determine the qualifications of all electors.

Second. The Constitution reserves this authority to the States and specifically provides that the qualifications of electors in all Federal elections shall also be vested in the several States.

Third. The power of Congress to regulate the "times, places and manner of holding Elections for Senators and Representatives" does not invest the Congress with any power to determine the qualifications of electors in such elections.

Fourth. The power of Congress to enforce the 15th amendment is limited to enacting "appropriate legislation" which cannot go beyond prohibiting State action which denies or abridges the right to vote because of race, color, or previous condition of servitude.

Now, Mr. President, let me turn to a consideration of the provisions of S. 1564 and see if they can be reconciled with these constitutional principles. First of all, it should be noted that the authors of this proposal, as originally introduced, did not pretend to base it on any provision of the Constitution except the 15th amendment. It was entitled a bill "To enforce the 15th amendment to the Constitution of the United States." In addition, the Attorney General stated in his testimony before the House Judiciary Committee, as shown on page 31 of the preliminary transcript, that "as drafted this is based entirely on the legislative provisions of the 15th amendment." As reported, however, it is now described as a bill to enforce the 15th amendment "and for other purposes." I do not know what the significance of the latter phrase is, unless it is an admission that the Congress does not have authority under the 15th amendment to abolish poll tax requirements, as was originally proposed by section 9 of the bill as reported by the Judiciary Committee. At any rate, the mere addition of this phrase in the title does

not add to nor detract from the power of Congress to enact this bill.

Section 2 of S. 1564 simply declares that no voting qualification or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right to vote on account of race or color. This neither adds to nor detracts from the validity of the bill. Section 4 (b) provides, however, that no citizen—and I repeat for emphasis, no citizen—shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State or political subdivision, in use on November 1, 1964, if first, less than 50 percent of the persons of voting age in that State or political subdivision were registered to vote on November 1, 1964, or if less than 50 percent of such persons actually voted in the presidential election of November 1964, and second, than 20 percent of the persons of voting age are nonwhite according to the 1960 census.

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

Mr. STENNIS. I am delighted to yield to my colleague and my friend from Georgia.

Mr. TALMADGE. The Senator is making a most able speech. I congratulate him heartily for pointing out some of the evils of the bill.

Has not the Senator been reading the carefully contrived formula which would suspend the constitutional right to have literacy tests or educational tests in some 6 States while they would be retained in the other 44 States of the Union?

Mr. STENNIS. The Senator is correct. That is a legal and statutory monstrosity.

Mr. TALMADGE. Will the Senator from Mississippi yield further?

The PRESIDING OFFICER (Mr. FANNIN in the chair). Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. STENNIS. I am glad to yield.

Mr. TALMADGE. I will ask the Senator if Congress itself, in debating the 15th amendment, did not reject an effort made both in the House and in the Senate, to prohibit the inclusion of educational qualifications in the 15th amendment?

Mr. STENNIS. The Senator is correct. The Senator from Georgia pointed out such a case on the floor of the Senate the other day, in a fine historical and factual presentation of that great fact in our constitutional history, that those who proposed the amendment dared not and would not—for good reasons, too—put such a provision in the amendment itself.

Mr. TALMADGE. Is it not true that Boutwell offered an amendment to prohibit educational qualifications, and that it was rejected by the House of Representatives by a vote of 45 to 95?

Mr. STENNIS. The Senator is correct. That is the record as taken from the official recordings of the vote at that time. It was an overwhelming vote against that kind of proposal.

Mr. TALMADGE. Is it not true that a similar proposal by the Senator from Massachusetts, Senator Wilson, was defeated in the Senate by a vote of 19 to 24?

Mr. STENNIS. The Senator is correct. I am familiar with that proceeding.

Mr. TALMADGE. The Senator from Massachusetts, Senator Wilson, also offered a modified version which was agreed to by the Senate, but is it not also true that it was rejected by the House of Representatives by a vote of 37 to 133?

Mr. STENNIS. It was overwhelmingly rejected and was lost in the legislation at that point.

Mr. TALMADGE. The Senator from Mississippi has been an able judge in his own State. Is it not true that when we consider the meaning and intent of any provision, whether it be a provision of the Constitution or a statute, that we go back to see what was the intent of the framers of a particular law, if there was any doubt as to its meaning?

Mr. STENNIS. That is the only logical and safe guide we have. It is the one which we have always followed. When we deviate from that principle, or attempt to do so, we get into trouble and we have to go back to it. We have to go back to the only correct interpretation that free men can have and still have a Constitution.

Mr. TALMADGE. Is it not as clear as daylight, as demonstrated by the votes in House and Senate, that in submitting the 15th amendment to the States of the Union in 1870, Congress had no intention and no desire to suspend the right of any State to have a literacy provision?

Mr. STENNIS. Nothing could possibly be clearer and more certain in all our constitutional history than that very point. The right of the States to establish such voter qualifications was a pivotal fact upon which the Constitutional Convention turned, as the Senator well knows, when the original Constitution was being written. If it had not been decided as it was, we would not have obtained a Constitution at that time.

Mr. TALMADGE. If Congress rejected an effort to broaden the 15th amendment in 1870, does not the Senator from Mississippi believe that it is utterly inconceivable and incomprehensible that today's Congress could accomplish by statute, 95 years later, what Congress in 1870 refused to do by constitutional amendment?

Mr. STENNIS. The Senator is correct. It is unthinkable that we should abandon constitutional principles. As I pointed out, while the Senator from Georgia was looking into another matter in the Chamber, it is incomprehensible in our system of government that this be done under the guise of suspending the operations of the Constitution for x number of years, and that we are going to suspend the Constitution in certain sections of the country but not in others, in order to meet the situation.

Mr. TALMADGE. Is this not a part and parcel of a pattern that the end justifies the means, that might makes right?

Mr. STENNIS. It certainly is. In great deference to our friends, the proponents of the proposed legislation, it is, in essence, the same thing that Adolf Hitler was successful in bringing about in Germany at the beginning of his search for power. I make no comparison between the proponents of the proposed legislation and Hitler, only a comparison of the end result. Hitler stated that he believed in the German Constitution, but in order to attain certain goals which he had in mind, which would have to be accomplished quickly, the German Constitution would have to be temporarily suspended.

Mr. TALMADGE. Can Congress suspend any provision of the Constitution of the United States in any area at any time?

Mr. STENNIS. I believe not. I believe that is clear. It is crossroads logic and commonsense. The Supreme Court affirmed that logic when it decided the great case of Ex parte Milligan—which grew out of the unfortunate Civil War 100 years ago—from which case I expect to quote later in my remarks.

Mr. TALMADGE. The Milligan case held that neither Congress nor anyone else could suspend any part of the Constitution at any time, even in wartime, in any area of the Nation.

Mr. STENNIS. The Senator is correct. During the stresses and strains of that unfortunate Civil War, a man was tried, as the Senator will recall, under a military court which claimed that, in view of the rebellion—as it was called—the civil court could not function, and was therefore suspended.

The Supreme Court, however, said, "No; a thousand times no." That case has become a milestone, a great light in our constitutional history down through the years until this day. I do not believe that Congress will go back on it.

Mr. TALMADGE. I thank the Senator from Mississippi and compliment him on his able speech. I entirely agree with him.

Mr. STENNIS. I thank the Senator from Georgia very much for his very fine questions and observations. No one is better qualified to speak on the subject than he. He always lives up to the principles in which he believes, in spite of temporary hurt. I have seen that happen to him. I commend him highly for his position and for his consistency.

Mr. President, the Senator from Georgia referred to the Ex parte Milligan case. I shall cite another part of it later in my presentation, but I wish to refer to it at this time. It grew out of the Civil War, and was decided by the Supreme Court of the United States in its December term, 1866. It concerned the case of a man named Milligan, who had been convicted in the State of Indiana by a military court and sentenced to be hanged. The court having jurisdiction contended that the area was in a state of rebellion and that therefore the civil courts were suspended and could not properly function. On appeal to the Supreme Court of the United States, the plea was made that the law of necessity applied in war as well as in peace, and the Constitution could not be carried out.

This is what the Supreme Court said in volume 71 on pages 120 and 121 of the U.S. Report:

The Constitution is a law for rulers and people equally in war and in peace, and cov-

ers with the shield of its protection all classes of men at all times and under all circumstances.

No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the Government, within the Constitution, has all the powers granted to it, which are necessary to preserve its existence; as has been happily proved by the result of the great effort to throw off its just authority.

The principles in that case have been followed over and over again without exception. It has been the law from that time until this very minute.

I respectfully submit that it cannot be overthrown in any way by a legislative body. I submit that the only way that law can be overthrown is by an amendment to the Constitution of the United States. I do not believe that the people of this country would adopt such an amendment.

Under no guise, to meet no condition, the Supreme Court said, can the Constitution be suspended. That is where our freedom lies. Of course there are some abuses of election laws, not only in the South, but everywhere. There may be a different reason for such an abuse in various places, but to get at the problem in the way it is proposed to get at here is wholly beyond the power of Congress. It is a direct violation of the Constitution of the United States. To come in under this guise, in an attempt to suspend the Constitution in order to get at a remedy, is more iniquitous and more damnable and more dangerous than would be a direct assault on the Constitution itself, in an effort to get its interpretation reversed, because if we can suspend the Constitution for one purpose, we can suspend it for another. If we can do it for 6 months for one reason, we can do it for 6 years or 60 years or 160 years for another reason. There is no power in Congress to suspend for even 1 minute the plain provisions of the Constitution of the United States. The people have that power. Congress does not have it.

Congress has already enacted a law, the so-called Civil Rights Act of 1964, which, with other laws already on the books, will meet fully and amply every problem that arises out of the racial question and voting rights. Only a little time is needed.

I have no doubt that that was the policy and the intent of the President of the United States and the Attorney General on January 1st of this year, and that it was the general thought of the membership of the Senate, both Democratic and Republican, and that it was the general thought of everyone in position of power and responsibility that that law would be used gradually and firmly and positively; that in that way the problems in different areas of the country would be gradually solved, and that any injustices and imperfections which exist would gradually and certainly and fairly and firmly and rapidly be wiped out.

Everyone knew that, including the majority leader and the minority leader. That was the plan of Congress until the marches started down in Alabama. That was the situation here. Then the marches started. Emotions became aroused. People flocked in. After the registration books in Selma, Ala., had already been opened fully and the registration had been operating every day under a court order, certain people marched from Selma to Montgomery in an effort to arouse sentiment and stir up the people.

I speak with great respect for the President of the United States and the political parties and the leaders of those parties. However, when that started, no one wanted to get out and switch quickly, and there was a contest between the political parties, and everyone wanted to get into the act, so to speak. As a result, the Attorney General hurriedly tried to write a bill, and everyone started to put in his word, in spite of the fact that it was clearly understood that there would not be any bill on this subject passed on this year, because one had been passed last year.

Mr. President, this subject is charged with emotionalism. It is charged with competition between the parties, with competition among the groups that lead our colored citizens, and competition among various persons in public life. The only thing left that had not already been done was to try to run over the Constitution of the United States. There was nothing else to do. Some said, "We will not meet the problem head on; we will have the Constitution suspended. We will take one section of the Constitution of the United States, the 15th amendment, and try to suspend other sections of the Constitution.

Fine, honorable men have stood on the floor of the Senate and have said that they would not yield, even to the threat of political death, to any bill designed to outlaw a literacy test for voting, but that they would vote to suspend the Constitution.

Mr. President, I ask, which is the more iniquitous—to vote to suspend a provision of the Constitution in order to meet a situation, actual or not, or to vote to reverse it?

I believe there is more danger to this great Nation in this flanking attack, in trying to suspend the operation of the Constitution of the United States, than there would be in an assault from the front, or even trying to knock down one of its provisions. Certainly not as bad a precedent would be set in trying to get a total reversal, as in trying to bring in the doctrine, which is charged with iniquity, of suspending the Constitution of the United States.

I notice, in the language in the 18th amendment to the Constitution, language almost identical with that proposed here, to the effect, that Congress shall have authority to enforce the provision by appropriate legislation. The 18th amendment was adopted in 1920, as I recall. That provision was contained in it.

On second thought, in later years, because of what had occurred in the meantime, the principle contained in that amendment was reversed and the amendment was taken out of the Constitution. But the difference between the approach contained in the 18th amendment "by appropriate legislation," under the Volstead Act, and what is proposed here is that Congress in the former case did not try to suspend the right of trial by jury.

Certainly Congress did not mean by "appropriate legislation" the right to suspend a fundamental principle like trial by jury. By the operation of the same logic it cannot be argued with any reason that the 15th amendment, which gives Congress the right to enforce it by appropriate legislation, gives Congress the power to suspend the operation of a literacy test in connection with the constitutional provision dealing with qualified electors.

Mr. President, I have illustrated the danger and the pitfalls in which we find ourselves so quickly when we talk about suspending the Constitution of the United States.

There is no Senator whom I respect more than the Senator from New Hampshire [Mr. COTTON]. I wish he could be present in the Chamber. Perhaps he will come into the Chamber later today. I am sure he will. I understand that he said yesterday, he would never support any proposed legislation that carried with it the idea that Congress has the authority to abolish a literacy test as a qualification for voting, but that he could vote to suspend that necessary requirement. With all deference to him—and he is a wonderful character and a fine mind—how can he make that distinction? So far as congressional power, right, and authority are concerned, how can he say that we do not have the authority, the power, and the right to abolish a literacy test, but that we can suspend it? Someone else might come along and say, "We will not abolish the right of trial by jury, but we shall suspend it in order to meet a condition."

He might say, "I do not want to abolish so and so, but I will suspend it."

Finally, a majority could be brought together, and, bit by bit, the whole Constitution of the United States could be suspended. That point has been emphasized and underscored many times over when the suggestion has been made that a little more time be given, that there are Federal laws already on the books under which the Attorney General of the United States has full and ample authority to enforce the provisions of the 15th amendment.

They have the power; they have the money, and it will not take very much time. But the proponents of the measure are not satisfied with a reasonable approach with a reasonable time to make adjustments which could rapidly be made. They wish a shotgun approach. They say, "Do it all now. The Constitution be damned. If the Constitution does not allow it, we shall suspend the Constitution." They say, "We will condemn the poll tax. We will outlaw it. We will defy it. We will change it."

I submit that whether such an outcry comes from the part of the country in which I live or whether it comes from white, colored, or anyone else, it is a dangerous doctrine. A constitutional government cannot live under the idea

that the Constitution can be suspended in order to reach an end result, especially when there are adequate, full and ample remedies on the books that are already getting results.

Mr. THURMOND. Mr. President, will the able Senator yield?

Mr. STENNIS. I am glad to yield to the Senator from South Carolina.

Mr. THURMOND. I commend the Senator for making such an outstanding and able address. He has made the point, which I believe is very significant, that some of those who are proposing the bill would be willing to suspend the Constitution of the United States. Prior to coming to the Senate, the Senator from Mississippi was an able circuit judge in his State. He has been a student of constitutional law. He bears a reputation for being a fine lawyer. I am wondering if he knows of any precedent under which the Constitution has ever been suspended. I wonder if the Senator knows of any authority in the Constitution or any authority anywhere that has ever held that the Constitution of the United States can be suspended.

Mr. STENNIS. I thank the Senator for his reference to me. I can quickly answer that question by saying that I have carefully searched the lawbooks and other sources, and I have not found one authority in which it has been indicated that the Constitution of the United States can be suspended. The idea is ridiculous. Even in wartime, when civil government had broken down, as revealed in the Milligan case, with which the Senator from South Carolina is so familiar, the Supreme Court said, "It cannot be done. It is beyond the purview of our concept of government." That opinion has been followed without exception to this day.

Mr. THURMOND. If the bill which is now before the Senate for consideration were passed, would not the effect of the bill be to suspend the Constitution of the United States and particularly to suspend article I, section 2, which provides that the States have a right to fix voting qualifications?

Mr. STENNIS. That is exactly what it would do. It is a frontal assault. The Constitution does not provide that the Federal Government shall prescribe the qualifications. It does not state that the rights of States to have literacy tests can be repealed. But the bill states that in certain areas of the country the Constitution will be suspended in that respect. As I have said, the idea is unthinkable that we would do such a thing, because we are totally without power.

Mr. THURMOND. If the Congress should pass such a law that would suspend the Constitution in the matter of fixing voter qualifications, would not that set a precedent for the Congress to pass other laws which would suspend other provisions of the Constitution if an expediency should arise that might appear to demand it?

Mr. STENNIS. The Senator is correct. The right of trial by jury could be suspended under the same machinery and the same reasoning. Almost 99 years ago the court decided that it would try to suspend the right of habeas corpus and, as the Senator recalls, convict under the power of military court. The idea could be applied to taxation. The power of Congress to suspend the Constitution of the United States could be applied to anything. If the issue related to any other subject than the controversial one with reference to racial problems, the subject would not be considered 5 minutes.

Mr. THURMOND. Is it not peculiar that anything that is brought up in the Congress pertaining to racial questions seems to throw the Congress in a conniption, and the Members of Congress are willing to pursue a course that they would not think of pursuing otherwise?

Mr. STENNIS. I think that is undoubtedly true. As the Senator from Mississippi pointed out a moment ago, there is already a law on the books that would take care of every conceivable consideration that could arise on account of voting—alleged discrimination in jobs, employment, schools, and everything else, because of race and color. The wheels are already turning, and all the objectives of that law will be carried out. This bill is a demand from those in the streets who clamor.

Mr. THURMOND. The great State of Mississippi has laws to protect the right to vote. South Carolina has laws to protect the right to vote. Every other State of our Nation has laws to protect the right to vote. In spite of that, there are 6 criminal laws and 10 civil laws—16 Federal laws—to protect the right to vote. Yet people who have other purposes in mind are eager to hold demonstrations and claim that people cannot vote.

Is it not true that in Alabama, on February 4, a Federal judge issued a court order providing that all who had not been registered by July of the present year would be registered by his court-appointed registrar, that he guaranteed those people that they would be registered and that they would have the right to vote, and in the order, he had ordered that at least 100 be registered each week to vote and that facilities be maintained to register 8 applicants simultaneously? Is it not true that all of that has been done, but in spite of that action, demonstrations were subsequently held anyway?

Mr. STENNIS. That is the history of the question. People were told that it could not be left to the States. It was totally in the hands of the Federal Government. A Federal judge had opened the doors of his court and they were proceeding in an orderly way and as fast as the court could act. Everything was favorable. But the march had to go on anyway. Everything was thrown overboard, and they wrote their own law, more or less.

Mr. THURMOND. Does the Senator believe that if the law that is now proposed be passed, it will bring an end to demonstrations in the future?

Mr. STENNIS. Not at all. It will pave the way for a new order of demonstrations. Those demonstrations will be with respect to housing and will be only the beginning. I have great compassion for other areas of the country because I believe that when the next step is taken, they will be in worse trouble than we in our area are. There will be demands for housing and other demands of every kind along these lines. If the bill passes, it will pave the way for suffering in other areas that will be more intense than in our areas.

Mr. THURMOND. Does the Senator from Mississippi feel that the voting rights question is merely a pretext, or that the housing problem would be a pretext, and that the main purpose of the demonstrations is really to generate incidents to bring about violence, which, in turn, will result in emotionalism throughout the country and cause the contribution of large amounts of money to the leaders of Negro demonstrations? Will not this create a demand that Congress pass a law to take power away from the States and bring it to Washington because the people in the States can no longer be trusted, and that Congress, therefore, must enter into certain fields of activity to protect the rights of the people? Does not the Senator feel that the bill is tied in with those activities in such a way that that could be the result?

Mr. STENNIS. It is inescapable. There are already laws on the books that could be carried out for such purposes. Both political parties are pledged to carrying out the law as it is now written, and Congress has provided funds lavishly for the Department of Justice to enforce it. The people know that. The voting rights bill is merely a prelude to programs for housing, school bussing, and other demands of all kinds.

Mr. THURMOND. Would not the voting rights law be used as a pretext to obtain other programs that it will be said the people really want, in particular, programs to take power from the States and bring it to Washington?

Mr. STENNIS. Undoubtedly, that is the intent.

Mr. THURMOND. Were we not told last year that the passage of the civil rights bill, which is the most comprehensive bill of its kind ever passed by Congress, would bring to an end the need for civil rights bills, and that no more such bills would be needed? Were we not told that the racial question would be settled, and that there would be no more questions to be settled between the North and South? Were we not led to believe that if that bill were passed, it would bring an end to civil rights legislation?

Mr. STENNIS. The Senator is correct. I believe that our friends from other areas of the country thought that that was correct. I believe they were truthful when they told us that. But now the situation has moved into an additional arena, and an attempt is now being made to force new patterns by political intimidation. I believe that is very clear, and that many people who did not realize it before, realize it now.

The important thing is that we must always remember to stay within constitutional powers and guidelines.

Mr. THURMOND. Does the Senator from Mississippi feel that the demonstrations are really attempts to coerce Congress into enacting more laws on the

subject, in the hope that as a result, the power guaranteed by the Constitution will automatically be taken from the States and the people?

Mr. STENNIS. Undoubtedly the Senator is correct. When Congress assembled in January, facing many problems of our Government, both at home and abroad, these matters were not in that category. They were not in the field of operations, because enough law is on the books already, if a little time were allowed for it to operate.

The voting rights bill has been cooked up and scared up. We shall have to make a stand somewhere, sometime; otherwise this very problem will take over the country and abrogate the provisions of the Constitution.

Mr. THURMOND. The bill is entitled "A bill to enforce the 15th amendment to the Constitution of the United States."

The 15th amendment provides:

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Does the Senator from Mississippi believe that the voting rights bill has any connection with the 15th amendment? Could not the 15th amendment be enforced now, and is it not being enforced? Is it not a self-executing amendment that can be enforced without further legislation, although we already have on the books a law to enforce the 15th amendment? No one is trying to deny the right of people to vote. Has not the bill other designs and purposes, as the Senator from Mississippi has brought out? Does not the Senator agree with me?

Mr. STENNIS. The Senator from South Carolina is correct. There is no need for the proposed legislation. There has not been time to appraise and put in motion the legislation that was recently enacted. The voting rights bill is merely a scared-up bill, one that has been proposed suddenly. It is a prelude to further efforts with respect to housing and similar programs.

The law is plain and simple. There are remedies. There has not been an opportunity for the civil rights law to operate.

Not only are we going entirely beyond the Constitution; we are going beyond reason.

Mr. THURMOND. Some persons have taken the position that the 15th amendment has the effect of nullifying, overriding, or abrogating article I, section 2, of the Constitution. I should like to hear the Senator's opinion on that.

Mr. STENNIS. Article I, section 2?

Mr. THURMOND. That is the section that gives to the States the right to fix voter qualifications. I know of no decision or precedent of any kind which holds that the 15th amendment overrides article I, section 2. Is my understanding correct?

Mr. STENNIS. It is correct. That is really not a serious consideration, unless it be one of temporary political expediency. The rule is clear; the cases are clear. I am fully satisfied that the operation of present law will bring about, in a short time, the result that was planned by the proponents of the previously passed civil rights legislation.

Mr. THURMOND. If the 15th amendment had had the effect of overriding or nullifying article I, section 2, of the Constitution, which reserves to the States the right to fix voter qualifications, would not the 17th amendment, which was adopted 40 years after the 15th amendment, and which contains verbatim article II, section 2, have the effect of revising the 15th amendment?

Mr. STENNIS. Yes; the historical facts are clear, plain, and consecutive that there was no intent whatsoever to override the power residing in the States originally with reference to voter qualifications; and there is machinery now in the Federal law, a law that has been upheld by the Supreme Court and is now in operation.

Mr. THURMOND. The courts have construed this point; and in 1959 the Supreme Court handed down the decision in the famous Lassiter case, a decision that substantiated the position that the States still have the right to fix voter qualifications. Is that not correct?

Mr. STENNIS. The Senator is undoubtedly correct. The law is clear on that. This is a bill that has been cooked up as a matter of expediency, in an effort to obtain quick results and to meet the condition which exists in the streets.

Mr. THURMOND. Mr. President, does the Senator feel that there is any conflict between article I, section 2, and the 15th and 17th amendments to the Constitution? Are they not all parts of the Constitution?

Mr. STENNIS. The Senator is correct.

Mr. THURMOND. Is there any conflict between them?

Mr. STENNIS. They blend together perfectly. The consecutive development of the parts of the Constitution, the history, and the legal procedures blend together as part of one package—and particularly in view of the passage of the last major Civil Rights Act. It really establishes a pattern, and will produce results.

Mr. THURMOND. Has the Supreme Court, or any State or Federal court, held in any interpretation that has ever been made that there is any conflict among the three?

Mr. STENNIS. I believe not. There has been a consistent line of decisions, even down to the very last decision, which sets forth a magnificent pattern of suffrage rights, the application of those rights, and now with the present law, the application of those rights is regulated under Federal law with infinite detail.

Mr. THURMOND. Does not the Senator feel that with all of the laws we have on the subject of preserving and protecting the right to vote, State laws and Federal laws, no purpose can be served by this bill at all, other than political expediency?

Mr. STENNIS. I believe that there is considerable political pressure behind the bill, rather than logic or need.

I believe that we cannot afford to take some formula as a substitute for discipline and self-improvement for all of us. We want to instill personal responsibility in citizens of all colors. I cannot express it any better than that. I believe, from the statutes which are already on the books and clearly in the Constitution, that this is a matter of haste and a device to meet the marchers and paraders. These laws are already functioning in a fine way.

Mr. THURMOND. Mr. President, I commend the distinguished Senator from Mississippi for the great contribution he is making toward preserving constitutional government in the United States.

Mr. STENNIS. I thank the Senator very much for his courteous remarks, consideration, and his great assistance.

I shall now continue with my prepared remarks.

Section 4(b) of the bill now under consideration contains no express limitation which restricts its operation to enforcement of the 15th amendment prohibition against denials of the right to vote because of race or color. The simple recital that it applies only in States where more than 20 percent of the voting age population is nonwhite does not limit its coverage to prohibiting discrimination because of race or color. Given the existence of the statistical combinations set forth in section 4(b), the State or political subdivision involved would be prohibited from administering a literacy test to any citizen. The prohibition would apply to whites or nonwhites automatically, and clearly is not restricted or limited to preventing denials based on race or color. It cannot be contended that it is so limited. In this respect, it is similar to section 3 of the act of 1870 which the Supreme Court interpreted in the Reese case.

We must look further, therefore, to determine if section 4 is limited by any other provision in the bill. Certainly it is not limited by section 2, which merely states a truism that no person shall be denied the right to vote on account of race or color. I submit that there is no other possible restriction on this provision; if this is true, S. 1564 cannot be considered appropriate legislation under the 15th amendment.

It has been contended by the Attorney General and others that the effect of section 4 is limited by the provisions of subsection (a) thereof which provides that a State or political subdivision which is subject to section 4 may file a petition for a declaratory judgment in a three-judge district court in the District of Columbia. Such a State or political subdivision may be removed from coverage if that court finds that:

The effects of denial or abridgment, if any, of the right to vote on account of race or color have been effectively corrected by State or local action and that there is no reasonable cause to believe that any test or device sought to be used by such State or subdivision will be used for the purpose or will have the effect of denying or abridging the right to vote on account of race or color.

At first glance, Mr. President, it may appear that this provision effectively limits the coverage of section 4(b), only to preventing denials based on race or

color. It is true, of course, that section 4(b) will not apply to any State as to which determinations have been corrected. But what if the court does not find that such corrective action has been taken? In such case, the State or political subdivision could not require anyone to pass a literacy test. No action of the State would have to allege and prove that he had been denied the right to vote because of race or color; he could simply refuse to take a literacy test or comply with any valid State requirement which falls within the definition of "test or device" as set forth in section 4(c). It is, therefore, very clear that section 4(b) would not only prevent a State from discriminating against Negroes, but it would also prevent a State from applying any constitutionally valid test or device to anyone who attempted to register or vote, whether Negro or white.

There can be no question, Mr. President, that the effect of this provision is to apply to cases other than that of denying voting privileges on account of race or color. This provision of the bill would not prevent the nondiscriminatory use of literacy tests; it would simply prevent their use at all. The power to do this is not given to Congress by the 15th amendment or any other provision of the Constitution.

Mr. President, I have not concluded my remarks on this bill, but will do so at a later date.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MONDALE in the chair). Without objection, it is so ordered.

PROPOSED UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I send to the desk a proposed unanimous-consent agreement and ask that it be read by the clerk.

The PRESIDING OFFICER. The clerk will read the proposal.

The legislative clerk read as follows:

Ordered, that at the conclusion of routine morning business on Thursday, May 6, 1965, during the further consideration of S. 1564, debate on the amendment of the senior Senator from North Carolina [Mr. ERVIN] shall be limited to 4 hours, to be equally divided and controlled by Senator ERVIN and the junior Senator from Michigan [Mr. HART]; that debate on the amendment to be offered by the junior Senator from Massachusetts [Mr. KENNEDY] and others dealing with the poll tax shall be limited to 4 hours, to be equally divided and controlled by the mover of said amendment and the majority leader, and that debate on any other amendment, motion, or appeal, except a motion to lay on the table, shall be limited to 2 hours, to be equally divided and controlled by the mover of any such amendment or motion and the junior Senator from Michigan [Mr. HART]: *Provided*, That in the event the junior Senator from Michigan [Mr. HART] is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the majority leader or some Senator designated by him;

Ordered further, that on the question of the final passage of the said bill, debate shall be limited to 6 hours, to be equally divided and controlled, respectively, by the junior Senator from Michigan [Mr. HART] and the senior Senator from Louisiana [Mr. ELLENDER]: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

The PRESIDING OFFICER. Is there objection?

Mr. ELLENDER. I object.

Mr. DIRKSEN. Mr. President, will the Senator withhold that objection for a moment?

Mr. ELLENDER. Yes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIRKSEN. Obviously the Senate cannot be stalemated. There is work to be done, there are crises that confront the country. The business of the Congress must go on. The domestic program must continue. We cannot remain in a stalemated condition. Since the majority leader and I have discussed this matter rather fully, I thought we were bending over backward in being generous with respect to the amendments, particularly those that were most important, as to the time being allowed. I had hoped, under the circumstances, that there would be no peremptory objection, and that if any Senator was dissatisfied with the allowance of time on such an amendment as the poll tax amendment or the Ervin amendment, which, of course, is vital, and which strikes sections 4 and 5 out of the bill, and with respect to the so-called observer-watcher amendment, a little time could be added, or time could be added on the bill when we finally reach the third reading.

I hope my distinguished friend from Louisiana might have a counterproposal to make. We certainly are not hidebound about it, and thought we were being quite generous, after the discussions we had.

Mr. ELLENDER. Mr. President, four or five southern Senators have so far spoken on the bill as originally reported from the committee. The second substitute that we are now considering has been before us since just yesterday, and there has been no debate on it by the proponents, and very little by the opponents. I have not spoken yet, and the same applies to many other southern Senators who also desire to be heard on it. I think it comes in bad grace at this time for the leadership on both sides of the aisle to even suggest a limitation of debate. I therefore object to the unanimous-consent agreement.

Mr. MANSFIELD. Mr. President, will the Senator withhold his objection a little longer?

Mr. ELLENDER. Yes.

Mr. MANSFIELD. Is there any way in which we could arrive at a more liberal time which would satisfy the Senator from Louisiana?

Mr. ELLENDER. Not at this time.

UNANIMOUS-CONSENT AGREEMENT—SPECIAL APPROPRIATION BILL ON VIETNAM

Mr. MANSFIELD. Mr. President, I send a proposed unanimous-consent agreement to the desk and ask to have it stated.

The PRESIDING OFFICER. The clerk will read the proposed unanimous consent agreement.

The legislative clerk read as follows:

Ordered, that when the special appropriation bill on Vietnam requested in the President's message to Congress on May 4, 1965, is reported to the Senate, it shall immediately be made the pending business until disposed of; that there be five hours allocated to the debate thereon, including any amendments, and the time shall be equally divided between the senior Senator from Oregon [Mr. MORSE] and the chairman of the Appropriations Committee or his designee; and that immediately upon the completion of the consideration of said bill, the Senate shall return to the consideration of the unfinished business, S. 1564.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

VOTING RIGHTS ACT OF 1965

The Senate resumed the consideration of the bill (S. 1564) to enforce the 15th amendment of the Constitution of the United States.

NOTICE OF POSSIBILITY OF CLOTURE MOTION

Mr. MANSFIELD. Mr. President, in view of the fact that it seems impossible to arrive at a unanimous-consent agreement on the amendments and the bill, I think it is only fair that the leadership should announce at this time, so that all Senators may be informed, that because of the objection raised, we shall have to give very serious consideration to filing a motion for cloture at an appropriate time.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns tonight, it stand in adjournment until 12 o'clock noon tomorrow.

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

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, in view of the fact that I have raised the question of a cloture motion, I believe that I should be a little more explicit. I have discussed the possibility with the distinguished minority leader, the Sena-

tor from Illinois [Mr. DIRKSEN], and it is our tentative conclusion that we may well file a motion for cloture on Monday next.

I would hope, therefore, that Senators who have amendments to offer would keep this possibility in mind. I hope that it will be possible to comply with the request of the distinguished Senator from North Carolina [Mr. ERVIN], that a vote be had on his most important amendment on Thursday.

If I have been informed correctly by the distinguished Senator from New York [Mr. JAVITS]—and I am sure that I have—the distinguished Senator from Massachusetts [Mr. KENNEDY] intends to offer his amendment on the poll tax immediately following, and that would be taken care of this week as well.

I hope also that other amendments would be brought up from time to time, and that the Senate would be aware of the situation as it has developed this afternoon.

ORDER OF BUSINESS

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

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

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 5702) to extend for 1 year the date on which the National Commission on Food Marketing shall make a final report to the President and to the Congress and to provide necessary authorization of appropriations for such Commission, and it was signed by the Vice President.

EXPENDITURES BY THE GOVERNMENT FOR RESEARCH AND DEVELOPMENT

Mr. LONG of Louisiana. Mr. President, expenditures by the Government for research and development are designed to promote science and technology in the United States, not for the profit of any individual but for the benefit of all the people. There is no reason why the taxpayers of this country, who furnish the funds for this purpose, should then have to pay through the nose to use the results of the research they have already paid for.

I. SITUATION OF EMPLOYED INVENTOR

It is said that we must encourage the inventive genius of the United States, and that if we do not allow Government contractors to charge monopoly prices on the results of publicly financed research, inventors will be muffled and the scientific and technological level of our country will fall. That statement has been made by many hypocrites who themselves contract with scientists and engineers day after day and prohibit them from having the benefit of their discoveries, and yet they expect those scientists to produce good work for them.

I have here a letter I received from a scientist working for one of the largest corporations in this country. This corporation, which is one of the largest Government contractors, requires that its employees sign the following confidential agreement:

I hereby assign to the corporation my entire right, title, and interest in any invention or idea, patentable or not, hereafter made or conceived solely or jointly by me:

(a) While working in the corporation in an executive, managerial, planning, technical, research, or engineering capacity (including development, manufacturing, systems, applied science, sales and customer engineering); and

(b) Which relates in any manner to the actual or anticipated business of the corporation or its subsidiaries, or relates to its actual or anticipated research and development, or is suggested by or results from any task assigned to me or work performed by me for or on behalf of the corporation.

I ask unanimous consent that the letter and the confidential agreement form be inserted in the RECORD at the conclusion of my remarks. It was necessary to delete the name of the scientist and the firm for which he works, otherwise his job with the company would be placed in serious jeopardy.

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

(See exhibit 1.)

Mr. LONG of Louisiana. Mr. President, it is no wonder that this is a confidential agreement, for it shows that corporate scientists are tied hand and foot. Even their souls are shackled to corporate interests. Their very thoughts become part of the corporation's property. This, of course, is far different from anything I have ever conceived, anything we have a right to ask for. The only thing we have in mind is that when anyone is paid to do research for the Government, the results are made available to everyone, including the corporation that did the research. No one is excluded, no one is deprived of anything.

But the private corporations that require their scientists to sign an agreement like this exceed the bounds of a democratic society. It uses its economic power to extract privileges that the U.S. Government would not dream of doing. Even the salesman's or the janitor's thoughts, if the corporations find them valuable, become the property of the corporations. Yet, these companies who deprive their employees of every conceivable right, who make of their scientists and engineers mere corporate machines, have the audacity to complain that their scientists would lose incentive, if the results of Government-financed research were made available to the American people who paid for it. Even when a university scientist is working with private funds, the results of his work become corporate property. There is no problem of loss of incentive in that case. When public funds are used, and then the public asserts its rights to the results, why then do we hear about the possible loss of incentive? Because it is merely a red herring. Because those who stand to gain by getting a hammer-hold on Government-financed research have to give at least some semblance of respectability to their arguments. After all, it just does not sound good for a corporation to say that they do not like competition because they can make more money if they had a monopoly.

In the 14th annual report of the Senate Small Business Committee the report of the minority emphasizes that one of the factors to be considered in disposing the Government's property rights should be the background experience and knowledge of the contractor. But we do not hear a single word about the background and experience of the people who do the research and development. I have never seen a Government contract which requires the contractor to do what he himself forces his employees to do.

Some firms are so generous that they give a special consideration to their employees who come up with important inventions. According to a publication of the United Aircraft Corp.—"The Data Capsule," February 1965, pages 1 and 2—when an idea is accepted by a special corporation patent committee and a patent application is filed, the inventor receives the munificent sum of $250. He will receive an additional $50 when the patent is issued. Needless to say, if the company is dong research and development for the Government, even this small pittance will be paid by the Government.

II. CERTAIN EMPLOYEES OF EXECUTIVE DEPARTMENT WORKING AGAINST PUBLIC INTEREST

One of the chief arguments used to justify the giveaway to private firms of the results of research paid for by the public is that a new discovery or invention will not be produced unless a private firm has a monopoly for at least 17 years. What these people have in mind is that the public should pay for the research, then the Government on behalf of the public should give monopoly rights to the contractor, in order to enable him to charge the public a higher price than would be possible under competitive conditions. What this amounts to is that the Federal Government taxes the citizens of this country to secure funds for scientific research, on the grounds that such research promotes the general welfare, and then turns the results of such research over to some private corporation on a monopoly basis. This amounts to public taxation for private privilege, a policy that is clearly in violation of the basic tenets of a democracy. New discoveries derived from research supported by public funds belong to the people and constitute a part of the public domain to which all citizens should have access on terms of equality.

Whenever Congress has studied this problem, it has always come to the conclusion that the information and results of Government-financed research should be freely available to the public, and the language has been expressed in words similar to the Long amendment. I refer

the Senate to the Helium Gas Act, the Saline Water Act, the Water Resources Act, the Coal Research and Development Act, the Housing Act, the Arms Control and Development Act, the Veterans' Administration Prosthetic and Sensory Device Research Act, and the Appalachia Regional Development Act. The intent of the Atomic Energy and the National Aeronautics and Space, the Tennessee Valley Authority, and Solar Energy Acts are similar. If there is any consistency in Government patent policy, it is in those areas which are covered by statutes. If consistency is desirable, then the widespread adoption of the Long amendment is the logical way.

Certain employees in the Commerce Department, however, are lobbying to insure that the Long amendment is not adopted.

These representatives of industry on the public payroll are even putting pressure on the Department of Health, Education, and Welfare to oppose the Long amendment publicly. They want to insure that the results of Government-financed research in the field of health, specifically cancer, be given away as private monopolies.

In my judgment, Mr. President, this is a betrayal of a public trust.

Today, the public, through its Government, underwrites the training covered by colleges, medical schools, internships, careers, and research projects for individuals involved in medical research. The public underwrites equipment, construction, and facilities. The public provides grants for research programs and health demonstration projects. Yet, these public officials urge that the public should also pay through the nose for the use of the results of the research for which it pays.

The U.S. Chamber of Commerce, the National Association of Manufacturers, and other trade and industry groups are expected to represent their business constituents—and they do so very ably and legitimately. Government officials, who are paid by the public, however, are not expected to act as lobbyists on behalf of special interest groups. If public officials feel that their predispositions or their philosophies do not permit them to protect and advance the interests of the public as a whole, then they should join the special interest groups openly.

III. COMMINGLING OF FUNDS

The question is sometimes asked: Why should the public reap the benefits of research and development when the Government puts in, say, 10 or 20 percent, and the private company puts in the rest? The question can be reversed also. Why should the public contribute any amount, even 5 percent, to help a private corporation attain a monopoly position in order to be able to force the public to pay monopoly prices?

There is no reason why the Government should share in the costs with any private firm. This is the surest road to socialism. If the Government shares in the cost, inevitably and justifiably the Government will share in the profits, and perhaps share in the responsibilities of management. If ever a practice was devised to undermine the free, private competitive enterprise system, it is the practice of cost sharing.

If private industry wants to retain patents, trade secrets, and other property rights, then it should pay for the research and then try to sell its results without any strings attached. Private industry should be given every opportunity to fulfill the public's needs. If the Government wants to provide special services that the public needs, then the Government should pay the whole cost. In that way there can be maintained the sharp distinction between the private and public sectors of our society. Once the distinction becomes blurred, then woe to the private sector.

Mr. President, I should like to say something about the public contribution. I could, in good conscience, support appropriations of $12 billion or $15 billion—and the gross figure this year will be about $15 billion—for Government research, if we are doing that research to obtain information that we need, and the information developed is to be made available to the 190 million people in this country for their benefit. But if all we are doing is spending the $15 billion to pay some private concern to do something it would have done anyhow, and if we let that concern have private monopoly rights on its developments, then in my judgment we shall have given away $15 billion. If they would have done the research on their own account anyway, it would be a giveaway. So why not keep it clear? Either private concerns will carry on the research with their own money, with all the advantages of a private monopoly bestowed upon them, and with the Government protecting their private monopoly for them, or we should do it with Government money, the way we have done it during the first 150 years of the history of our Republic. In that case, when we do develop something, we should do what a private concern would do if it had paid for it.

Contracts usually provide that the rights under the contract belong to whoever has paid for the research. That is about the way any businessman would advise that it be done if he were operating the Government the way he operates his own business.

How often do we hear businessmen say, "What is wrong with the Government is that the Government does not conduct its affairs the way private business would do it."

If a private concern had a lawyer who signed a contract on behalf of the firm and the company expended a large amount of money for research and, having done so, the benefit went not to the stockholders but to the individual who either had the contract to do it for the company or to the scientist or engineer who actually did the research, the company would fire the lawyer and probably see if it could not institute criminal proceedings against him for betraying the interest of the stockholders and the management in drafting such a contract as that. And it would be right. It would certainly collect a large amount of money if it could find anything other than a complete error which had caused him to draft such a contract as that.

Another reason is that many firms have used Government research and development with ensuing patent rights as a substitute for their own research and development. Dr. Richard Nelson, of the Rand Corp., stated before my Monopoly Subcommittee of the Senate Small Business Committee that this practice is quite prevalent. Many firms determine what research is of interest to them and fits into their long-range program. They then try to sell the project to a Government agency for either all or partial financing. If they can get funding for it, fine. If not, there is a very good chance that they will get company financing for it. Dr. Nelson concluded that if the Government is not willing to waive title to patents, it might encourage the private firms to do their own research and in that way, enlarge the total of research and development in the economy.

What is wrong about that? They ought to be encouraged to do so.

A good illustration was given to me by Dr. Hornig, the Director of the Office of Science and Technology.

> Research personnel at Ohio State University conceived and tested an improved method for detecting the presence of surface fissures in metal objects involving the use of a liquid penetrant and a developer. This was not done under Government sponsorship, but the university was doing another study for the Government in the general area. Since a substantial amount of the development work would be required on the new process, the Government was asked if it was interested in supporting the work under contract. The Government declined. The university itself is undertaking to complete the work and will assume the task of patenting and licensing so as to make it available to the public.

IV. GOVERNMENT RESEARCH AND DEVELOPMENT RAISES TECHNOLOGICAL LEVEL OF OUR SOCIETY

By making the results of Government-financed research freely available to all, the technological level of our whole society is raised. Private industry itself benefits from this. A good illustration is the development of the fermentation process for the production of penicillin at the Peoria, Ill., laboratories of the Department of Agriculture. This process is still the basic process used in the production of penicillin and is also used for the production of practically all antibiotics made by private drug companies. The process which was available to all manufacturers thus enabled them to use it for other products. In addition, improvements were made in penicillin, and other changes, on which patents have been secured by private companies.

Another interesting example is that of dialdehyde starch which was developed at public expense by the Department of Agriculture and then made available to all of industry. The result is that private firms in many different industries are using the higher technological level as a new takeoff point, are making improvements, are making new adaptations to fit their own industries, and are securing patents on the work they themselves did. Dialdehyde starch is now being used for making high wet-strength paper and other special kinds of paper. It is used in the tanning of leather. Eastman Kodak is using it as a harden-

ing of gelatin for film, and it is also being used for surgical sponge.

Another illustration is epoxidized oils which are used as substitutes for conventional type plasticizer for synthetic resins. It prevents resins from turning yellow as they age. Plasticizers are used to make plastics pliable and tough so they can be molded and worked without cracking and remain flexible throughout their life. The new plasticizer makes plastics last longer.

The fact that a plasticizer makes up as much as 30 to 40 percent of many plastic products indicates the importance of this research. Here, again, the Department of Agriculture made the results of its research available to the public, and General Mills, Rohm & Haas, and other companies built on the public's research, upon which they secured their own patents.

These are only a few of innumerable examples available which show that private firms take to new developments as ducks take to water. There is no quicker way to stimulate production, provide employment, and raise the standard of living than to have the Federal Government unlock the treasures of modern science and make them available to all on equal terms.

Private industry has used the work, the knowledge, and the research of the Department of Agriculture to solve its problems. For example, Dr. V. T. Patton, director of urethane chemicals research and development, Wyandotte Chemical Corp., of Michigan, invited two Department of Agriculture research people for a visit to the company. The Department's people were able to advise the men of the Wyandotte research and development laboratories on several problems they had encountered in laboratory trials of the Department's starch-derived glycol glucoside polyether preparation. Representatives of three starch companies also had discussions with Department of Agriculture people because they had run into a problem identical to Wyandotte's experience—notes from the Director of the Northern Division, issue No. 757, April 16, 1965.

The knowledge and experience developed in the laboratories of the Department of Agriculture are available to all of mankind. One of the great developments of this great area of Government is dextran. Because of the vital need of the Armed Forces and civilian defense for a satisfactory blood plasma extender that could be used for the treatment of casualties in the event of atomic bombing or other national emergency, a comprehensive program for the development of a plasma substitute was initiated by the Department of Agriculture in 1950.

As a result of this work and cooperation with other governmental agencies and industrial groups, production of clinical-grade dextran on a commercial scale and its use in hospitals and on battlefields of Korea as a substitute for human blood plasma became a recognized accomplishment in approximately 1 year's time. Dextran is important in cases of immediate need for restoration of blood volume in accidents in civilian life where time and facilities do not permit blood typing. It is difficult, if not impossible, to place a dollar value on the importance of the development of clinical dextran, since human life is involved.

Because the knowledge of this product is available to anyone, people from all over the world come to see how they can benefit. Recently, representatives from Pharmacia, of Sweden, visited the Northern Agricultural Laboratories in Peoria, Ill. Increased dextran consumption and inability of its suppliers to step up capacity to meet Pharmacia demands brought these men from overseas to discuss production and to obtain information about equipment. In fact, Pharmacia, one of the largest privately owned drug producing firms in Sweden, which has two subsidiary plants in the United States, because this development is available to all of industry, is contemplating the possible construction of facilities for producing dextran in the United States. This will be helpful in increasing investment, employment, and income in this country.

V. GOVERNMENT RESEARCH BENEFITS ALL OF INDUSTRY

The principal argument that is used to justify the giveaway of the public's property rights in patents is that a monopoly is needed to insure the commercial utilization of new inventions and discoveries. It follows from this argument, of course, that new discoveries would remain unutilized if patent rights were held by the Federal Government and made freely available to all.

This argument is just plain nonsense. There is no evidence in support of this contention. The experiences of the Department of Agriculture, the Tennessee Valley Authority, the Atomic Energy Commission, the Interior Department, and other departments and agencies of Government show just the opposite. I have already given specific examples to show how private firms have taken new inventions and discoveries which were available to everyone and, basing their own work on them, have made improvements on which they secured their own patents. The new technological base was available to anyone who wished to take advantage of it.

A few weeks ago, the distinguished junior Senator of Alabama [Mr. SPARKMAN], who is chairman of the Select Committee on Small Business, called the attention of the Senate to some of the results of research carried on by the New Orleans laboratories of the Department of Agriculture in improving and expanding the uses of cotton. Because the results of this research have been made freely available to all, the new processes and products are being used to the fullest extent. No one is deprived of anything except the legal authority to exclude others.

Mississippi, Alabama, Georgia, South Carolina, and other cotton-producing States have benefited because the demand for cotton has increased. The cotton-textile manufacturing areas have been benefited, and the consumers throughout the United States have benefited through an increase in real income brought about by lower prices due to competition. I cannot for the life of me determine who has been injured as a result of making the results of Government-financed research freely available to all. I can see only benefits, not injuries.

Now, what are some of these developments?

One is a class of finishing agents which impart wrinkle-resistance and wash-and-wear qualities to cotton fabrics. At least a dozen companies are producing these agents, and many textile firms are using them. In 1962, alone, it is estimated that more than 2 billion yards of cotton fabric were treated with these new finishing agents.

Another development has been stretch-cotton fabrics which are opening new markets for cotton. All-cotton stretch fabrics have been used in giving garments greater comfort, better fit, and better shape retention. Estimated production for 1964 was 57 million yards. By 1975, it is expected that more than 2¼ million bales of all textile fibers will be devoted to stretch cotton.

Those in the executive branch in the Government, who are trying to justify the granting of monopoly rights on Government-financed research, would say that since everyone has access to this new technology, no one will use it. But, Mr. President, something must be wrong with this claim. We find, instead, that 30 companies—large and small—are using this new technology.

Other important developments for the cotton industry have been the development of durable, flame-resistant cotton fabrics, and weather-resistant cotton fabrics, which are being produced by processes invented and developed in the laboratories of the Department of Agriculture and which are freely available to anyone who wishes to use them. Dozens of firms in the chemical, fabric, and laundry industries are benefiting from these new developments.

The Tennessee Valley Authority, as everyone knows, does considerable research and makes the results freely available to the public. New processes developed by TVA in its fertilizer research, for example, are patented by TVA and then are made available to the fertilizer industry on a royalty-free, nonexclusive basis. As a result of this policy, farmers are getting more and better chemical fertilizers and at lower prices than they did 15 years ago. Two hundred and seven companies have been licensed to use TVA fertilizer patents, and about 170 of them are small businesses. Many of the small businesses would not have been able to be in business without the benefits of TVA's research and the use of its patents. This is illustrated in specific and concrete terms by letters from Mr. Aubrey Wagner, Chairman of the Tennessee Valley Authority, and from the Ouachita Fertilizer & Grain Co. of Monroe, La. I ask unanimous consent that these letters be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER (Mr. MONDALE in the chair). Without objection, it is so ordered.

(See exhibit 2.)

Mr. LONG of Louisiana. Mr. President, research conducted by the Department of Defense in its own laboratories

has also been made freely available to the public and there has been no hesitation in using these new developments. Let me cite a few examples.

The Chemical Corps packaging and materials development program has led to the development of a number of items of great value to both the military and civilian economies. The Chemical Corps, for example, used polyester resin to develop bleach containers that would withstand the corrosive action of bleaches, a polythylene plastic carboy to reduce expensive losses due to the breakage of glass carboys, and also a multiwall paper sack to ship bulk chemicals. These developments were needed in the civilian economy also because metal drums used to transport chemicals were subject to deterioration from corrosion and glass carboys were subject to breakage. There was also a need for inexpensive and strong shipping containers for bulk chemicals. Manufacturers of bags and sacks—as have manufacturers of various plastic suitcases, and many other manufacturers—are using the results of this research.

An improved method of producing technical grade DDT developed by the Army's Chemical Corps is being used in the manufacture of DDT by many small manufacturers.

In connection with studies of Tabun, a nerve gas containing the cyanide radical, an existing spot test for cyanide ion and cyanogen chloride was converted by Chemical Corps personnel into a sensitive method for quantitatively estimating minute concentrations of cyanide ion or cyanogen chloride. This quick and simple test has been used to detect minute quantities of cyanide by public health agencies, silver plating companies, coke plants, companies producing fertilizer by the nitrogen fixation process, the petroleum refining industry, the manufacturers of certain kinds of paper, and other industries. Manufacturers of vitamin products use it to measure the exact amount of cyanide in vitamin B_{12}. Cyanide is used in the manufacture of this vitamin.

The U.S. Army Engineer Research and Development Laboratories have developed cartographic drafting methods and equipment which has reduced by about 50 percent the cost of map compilation drafting used by private firms in this industry. The same organization has made available to the whole lithographic printing industry the results of its research in a new method of resurfacing lithographic press plates, which could reduce the cost of this operation by about one-third. Other cost-reducing methods and processes in printing, engraving, and lithography have been made available to all private firms that want to use them. The consequence has been a reduction in cost to consumers and greater and more profitable business for private firms.

The Army Engineering Laboratories has developed all kinds of paints—such as odorless and fire-resistant paints—protective coatings, snow and ice removal equipment, cranes, equipment for handling liquid fuels, fire-extinguishing agents, firehose, water purifiers, and a host of other things which are being produced by hundreds of companies, large and small.

The Quatermaster Corps has developed tents, sleeping bags, toilet soaps, heating and lighting equipment, precooked and dehydrated food products, fuels, and materials-handling equipment. New methods of tanning leather to make it more durable and long wearing have been developed by the Quartermaster Corps, put into the public domain, and are being used by the shoe and leather industry.

The Research and Development Division of the Office of the Surgeon General, Department of the Army, has developed new drugs, vaccines, and new medical procedures which are widely used in the civilian economy. The Walter Reed Army Medical Center has developed dental equipment which is used by all civilian dental practitioners.

The U.S. Army Electronics Laboratories have developed printed or etched circuits which eliminate laborious, skilled hand wiring, a process which opens the door to automated electronic production. The entire electronic industry has taken advantage of this development, which has brought about tremendous savings in the production and maintenance of all types of electronic consumer goods and capital equipment, from tiny hearing aids to giant computers. Not only can this process of manufacture save the Government as much as $30 million annually, but it can also save the consumers millions of dollars in electronic electrical goods production and maintenance.

The Army's Electronics Laboratories have made important contributions in the development of the transistor and in increasing the understanding of semiconductor properties. The advancement of the state of the art and free availability of new developments have opened the door in a practical and economic sense to the creation of a new industry with a tremendous potential growth. All of industry has benefited by the basic work done in this area by the Army's laboratories: the semiconductor industry and the electronic equipment industry, as well as all industrial users of electronic equipment. Some of the civilian products incorporating these new developments are radar in commercial aircraft, hearing aids, computers, radio and television, electronic home appliances, industrial equipment, medical research and equipment, and other products too numerous to mention.

I can go on indefinitely citing specific examples which certainly corroborate my point that new knowledge, new discoveries, new inventions, when made freely available to all our people, raise our standard of living, increase employment and consumer welfare, increase total profits, and enrich our lives in general.

VI. SOME GOVERNMENT OFFICIALS LACK FAITH IN COMPETITION

Dr. Hornig, the President's science adviser, has told me, my assistant, and others through letters that, in his judgment, monopoly is necessary for economic progress, that the American people will not have the advantage of the new developments, including the latest drugs, unless the Government bestows on private companies monopoly rights to the results of publicly financed research. Why? So these companies can force the public to pay through the nose for those things which the public has already paid to bring into being.

Mr. James Webb, the Administrator of the National Aeronautics and Space Administration, has expressed the same sentiments. When Mr. Webb appeared in March 1963 before the Monopoly Subcommittee of the Senate Small Business Committee, he was asked if he could give the subcommittee any figures, studies, or facts of any kind which might reasonably support his position.

What do you think was his answer, Mr. President?

His answer was:

> It is a very difficult statement to prove but anyway I will do my best for you.

It is more than 2 years later, Mr. President, and no supporting evidence has been received yet.

My guess is that he does not have any evidence. There just is not any.

We ask for proof, and instead we get ridiculous statements as to how wonderful monopoly is.

Let us not fool ourselves. What these people are really saying is that they have no faith in capitalism, that they have no faith in the free, competitive enterprise system. What these people are really saying is that some kind of a public subsidy—and that is what it really is—is needed for economic growth and the maintenance of employment, income, and the standard of living; the free play of the marketplace cannot be trusted.

Mr. President, I think we ought to settle this problem once and for all. If what these gentlemen say is true, then perhaps we ought to consider repealing the Sherman Act, the Clayton Act, the Federal Trade Commission Act and other legislation which was designed to preserve our system of economic freedom, and to prevent the closing off of large segments of our economy to those people who wish to risk their resources and add to the wealth—both material and spiritual—of our society.

Mr. President, this is not merely an economic problem. This is a problem which concerns our liberty and freedom. To the extent that, through the granting of monopolies, areas of our economic life are barred to many of our citizens, to that extent is our freedom abridged.

Scientific and technological research conducted or financed by the U.S. Government represents a vast national resource, which could equal or surpass in actual and potential value the public domain opened to settlement in the last century. Because the control of patent rights in inventions resulting from such activities means the control of the fruits of this resource, it is the function of the Government to make the results of research available for use by the entire American public which has made this research possible.

Mr. President, if one would only picture what is involved, and project this matter over 8 years of a President's

term, assuming he is reelected by the people, we are talking about a gross amount of $120 billion to be invested over an 8-year period either in establishing, strengthening, or maintaining monopolies which are burdensome and expensive to the public. We are talking about a vast public investment by the people amounting to $120 billion. This is knowledge which should be made available not merely to a few Government favorites.

For that reason, I am introducing the bill, which I now send to the desk, for appropriate reference, and I ask unanimous consent that the text of the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 1899) to prescribe a national policy with respect to the acquisition, disposition, and use of proprietary rights in inventions made, and in scientific and technical information obtained, through the expenditure of public funds, and for other purposes, introduced by Mr. LONG of Louisiana, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 1899

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 "Federal Inventions Act".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "Administration" means the Federal Inventions Administration.

(b) The term "Administrator" means the Administrator of Federal Inventions.

(c) The term "executive agency" includes any executive or military department of the United States, any independent establishment (other than the Administration) in the executive branch of the Government, the Government Printing Office, the Library of Congress, and any wholly owned Government corporation.

(d) The term "agency head" means the head of any executive agency, except that (1) the Secretary of Defense shall be the agency head of the Department of Defense and of each military department thereof, and (2) in the case of any authority, commission, or other agency control over which is exercised by more than one individual such term means the body exercising such control.

(e) The term "contract" means any actual or proposed contract, agreement, commitment, understanding, or other arrangement entered into by any executive agency with any other person for the acquisition of any property by or on behalf of any executive agency or for the rendition of any service for or on behalf of any executive agency, and includes any assignment, substitution of parties, or subcontract of any tier executed or entered into for or in connection with the performance of that contract.

(f) The term "person" includes any individual and any corporation, partnership, firm, association, institution, or other entity.

(g) The term "invention" means any invention, discovery, improvement, or innovation, without regard to the patentability thereof.

(h) The term "class", when used with regard to inventions, means any class or subclass of inventions under the classification system of the Patent Office.

(i) The term "made", when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

PROPRIETARY INTEREST OF THE UNITED STATES IN INVENTIONS

SEC. 3. (a) The United States shall have exclusive right and title to any invention made by any officer or employee of the United States or any executive agency if—

(1) the invention was made in the performance by such officer or employee of duties which he was employed or assigned to perform, and was made during working hours or with a contribution by the Government of (A) the use of Government facilities, equipment, materials, or funds, (B) information in which the Government had a proprietary interest, or (C) the services of any other officer or employee of the Government during working hours; or

(2) the officer or employee who made such invention was employed or assigned to perform research, development, or exploration work and the invention is directly related to the work he was employed or assigned to perform or was made within the scope of the duties of his employment.

(b) The United States shall have exclusive right and title to any invention made by any person if the invention was made in the course of or in consequence of any scientific or technological research, development, or exploration activity undertaken by that person or any other person for the performance of any obligation arising directly or indirectly from any contract or lease entered into, or any grant made, by or on behalf of any executive agency.

(c) Notwithstanding any other provision of law, any patent issued by the Commissioner of Patents for any such invention shall be issued or assigned by the Commissioner to the United States upon application made by the Administrator and without payment by him of any fee or compensation.

(d) Nothing contained in this Act shall deprive any person of any right or interest duly acquired in or with respect to any patent issued for any invention not made in the course of or in consequence of any scientific or technological research, development, or exploration activity undertaken by any person for the performance of any obligation arising directly or indirectly from any contract or lease entered into, or any grant made, by or on behalf of any executive agency.

FEDERAL INVENTIONS ADMINISTRATION ESTABLISHED

SEC. 4. (a) There is hereby established in the executive branch of the Government the Federal Inventions Administration. It is the duty of the Administration, in the performance of its functions, to—

(1) stimulate invention within the United States and encourage the disclosure of inventions;

(2) protect, promote, and administer the proprietary interests of the United States with respect to inventions made and scientific and technological information obtained through activities conducted by executive agencies and through contracts and leases entered into and grants made by or on behalf of such agencies; and

(3) promote to the greatest practicable extent widespread use in industry and agriculture of inventions made through the expenditure of public funds.

(b) The Administration shall be headed by an Administrator of Federal Inventions, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed for Level III of the Federal Executive Salary Schedule.

(c) There shall be in the Administration a Deputy Administrator of Federal Inventions who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed for Level IV of the Federal Executive Salary Schedule. The Deputy Administrator shall perform such duties and exercise such powers as the Administrator shall prescribe. During the absence or disability of the Administrator, or in the event of a vacancy in the office of the Administrator, the Deputy Administrator shall act as Administrator.

(d) There shall be in the Administration a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for Level V of the Federal Executive Salary Schedule. The General Counsel shall be the chief legal officer of the Administration, and shall perform such duties as the Administrator may direct. During the absence or disability, or in the event of vacancies in the offices, of the Administrator and the Deputy Administrator, the General Counsel shall act as Administrator.

(e) The Administrator, Deputy Administrator, and the General Counsel may not engage in any other business, vocation, or employment while serving as such. No individual shall be appointed or serve as an officer or employee of the Administration—

(1) while he holds legal title to, or beneficial equitable interest in, share capital (A) exceeding in market value $1,000 in any corporation engaged in the performance of any scientific or technological research, development, or exploration activity pursuant to any obligation arising directly or indirectly from any contract or lease entered into by or on behalf of any executive agency, or (B) exceeding in market value $5,000 in more than one such corporation; or

(2) if within five years he has served as an officer or director of any such corporation; or

(3) if within five years he has been affiliated in any capacity with any partnership, association, institution, or other legal entity which is engaged or at any time during such affiliation was engaged in the performance of any scientific or technological research, development, or exploration activity pursuant to any obligation arising directly or indirectly from any contract or lease entered into or grant made by or on behalf of any executive agency.

POWERS AND DUTIES OF THE ADMINISTRATOR

SEC. 5. (a) The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration and shall have authority to direct and supervise all personnel and activities thereof.

(b) The Administrator is authorized, subject to the civil-service laws and the Classification Act of 1949, as amended, to appoint and fix the compensation of such personnel as may be required for the performance of the functions of the Administration. The Administrator may procure, without regard to the provisions of the civil-service laws or the Classification Act of 1949, as amended, the temporary and intermittent services of individuals and organizations to the same extent as authorized for executive departments by section 15 of the Act of August 2, 1946 (60 Stat. 810), but at rates not to exceed $75 per diem for the personal services of individuals. With the prior consent of the agency head of any executive agency, the Administrator may (1) utilize the services, information, and facilities of any such agency, and (2) employ on a reimbursable basis the services of such personnel of any such agency as the Administrator deems advisable.

(c) The Administrator may establish such advisory committees as he may determine to be appropriate to provide to the Administration necessary consultation, advice, and information relating to its functions and the performance thereof.

(d) The Administrator may promulgate such rules and regulations as may be necessary to carry out the functions vested in him or in the Administration, and he may delegate authority for the performance of any such function to any officer or employee under his direction and supervision.

(e) Upon request made by the agency head of any executive agency (other than the Administration), the Administrator may delegate to such agency head authority for the administration of any proprietary interest of the United States in any invention or class of inventions if the Administrator determines that such other executive agency possesses special qualification to carry into effect the purposes of this Act with respect to such proprietary interest of the United States. Any such delegation of authority shall be conditioned upon—

(1) compliance by such other executive agency with such general policies for the administration of that proprietary interest as the Administrator shall establish from time to time in conformity with the provisions of this Act; and

(2) the furnishing by such other executive agency to the Administrator of such periodical and special reports concerning the administration of that proprietary interest as the Administrator shall prescribe from time to time.

(f) The Administrator shall—

(1) prescribe such rules and regulations as he determines to be required for the fulfillment by executive agencies of their obligations under any provision of law relating to the proprietary interests of the United States in inventions and in scientific and technological information; and

(2) conduct from time to time such studies and investigations of the policies and practices of executive agencies relating to the proprietary interests of the United States with regard to inventions and scientific and technological information as he determines to be required for the performance of the duties of the Administration.

(g) Upon request made by the Administrator, the Commissioner of Patents and each executive agency shall furnish to the Administration such information and documents (including pending patent applications) as the Administrator may determine to be required for the performance of the duties of the Administration under this Act. Upon request made by the Administrator, the Attorney General shall initiate and conduct such legal proceedings as may be required for the protection and preservation of the proprietary interest of the United States in any invention or with respect to any scientific or technological information.

(h) The Administrator shall cause a seal of office to be made for the Administration of such design as the President shall approve, and judicial notice shall be taken thereof.

(i) The Administrator shall transmit to the Congress in January of each year a report which shall include—

(1) a comprehensive description of the activities and accomplishments of the Administration during the preceding calendar year;

(2) a detailed statement of the nature and effect of any disposal made during the preceding calendar year of any proprietary rights of the United States in inventions or scientific or technological information; and

(3) such recommendations for additional legislation as he may determine to be necessary or desirable to protect the proprietary interests of the United States with respect to inventions and scientific and technological information.

(j) Upon request made by the chairman of any committee of the Congress having jurisdiction over the subject matter, or the chairman of any duly authorized subcommittee thereof, the Administrator shall conduct such special studies, make such special reports, and furnish such information to such committee or subcommittee as such committee or subcommittee may determine to be required for the discharge of its responsibilities concerning the proprietary interests of the United States with respect to inventions and scientific and technological information obtained through the performance of services under contracts and leases entered into and grants made by executive agencies.

ADMINISTRATION OF PATENT RIGHTS OF THE UNITED STATES

SEC. 6. (a) The Administrator shall—

(1) make application to the Commissioner of Patents, and when determined by the Administrator to be in the interest of the United States to the appropriate officers of foreign governments, for the issuance to the United States of patents upon patentable inventions as to which the United States has proprietary rights;

(2) take such action as may be required for the prosecution of those applications in the interest of the United States;

(3) take title in the name of the United States to all patents issued or assigned to, and all interests in patents, proprietary rights to inventions, and technical information with respect to inventions acquired by, the United States or any executive agency; and

(4) maintain custody of and control over all documents evidencing the title or interest possessed by the United States with respect to any patent.

(b) The Administrator shall take such action as he determines to be required to—

(1) protect and preserve the proprietary rights of the United States with respect to patents, inventions, and scientific of technological information; and

(2) effectuate the dedication for public use of the proprietary rights of the United States with respect to any patent if he determines that such action will best promote the public policy declared by this Act.

COLLECTION AND DISSEMINATION OF SCIENTIFIC AND TECHNOLOGICAL INFORMATION

SEC. 7. (a) The Administration shall—

(1) prepare and maintain such indexes and other compilations of information as may be required to determine the nature and scope of the proprietary interests of the United States in inventions and in scientific and technical information;

(2) provide suitable repositories for, and schedules and compilations reflecting the nature and scope of, technical information obtained by the United States through the scientific and technological activities conducted by executive agencies and by other organizations incident to the performance of services under contracts and leases entered into and grants made by or on behalf of executive agencies; and

(3) make available to each executive agency (including the military departments) all scientific and technical information available to the Administrator which may have value to such executive agency in the performance of its functions.

(b) In order to provide for the prompt public dissemination, to the maximum extent consistent with the requirements of military security, of scientific and technological information, and to promote the widest and fullest possible use thereof in the public interest, the Administration shall—

(1) obtain, assemble, and classify available publications and other information concerning inventions and discoveries which may provide assistance for inventors, small business organizations, and the general public;

(2) evaluate all scientific and technological information available to the Administration to determine its probable application to commercial uses in the development of new and better products and advanced technological methods of production;

(3) compile, publish, and provide for the greatest practicable distribution to libraries, trade associations, and organizations engaged in trade and industry of publications disclosing the results of such evaluation to the end that inventors and industrial and trade organizations may receive promptly information concerning new inventions and discoveries relating to their fields of special interest; and

(4) conduct such economic research as may be required to evaluate the contributions made by the Administration through its activities to the growth of the trade and commerce of the United States and to the stimulation of competition among private enterprises engaged in such trade and commerce.

DISPOSAL OF PROPRIETARY INTERESTS OF THE UNITED STATES IN INVENTIONS

SEC. 8. (a) Whenever the Administrator determines that the objectives specified in section 4(a) of this Act can be accomplished best by the disposition in whole or in part of the proprietary interest of the United States in any invention, he may with the approval of the Attorney General and subject to the requirements of military security as determined by the Secretary of Defense—

(1) dedicate that invention to the public for public use without payment of any royalty or other charge;

(2) grant to any person who is a national of the United States, for purposes of commercial exploitation, a license to practice that invention; or

(3) grant to any such person (or, with the approval of the Secretary of State, to any foreign government or foreign national) a license for the practice of that invention, in exchange for the receipt of the right to practice a patented invention the title to which is held by such person or government, if the Administrator determines that such exchange is necessary to permit the development and use of any invention in which the United States possesses a proprietary interest.

(b) Each grant of any license made under paragraph (2) of subsection (a) shall be made for such period of time and upon such terms and conditions (including the payment of such royalties and other charges) as the Administrator shall determine to be required to fulfill to the greatest practicable extent the objectives specified in section 4(a). Each such grant shall be conditioned upon the payment to the Administrator of such royalties and other charges as he shall determine to be just and reasonable, except that the Administrator may grant to any person a royalty-free nonexclusive license for the practice of any invention if the Administrator determines that such invention was made in the fulfillment by such person of an obligation arising from a contract, lease, or grant entered into by or on behalf of an executive agency, or that the making of such grant will facilitate—

(1) the performance of the obligations of such person under any contract or lease entered into or grant made by or on behalf of any executive agency;

(2) the fulfillment of the obligations of the United States or any executive agency to or with respect to any friendly foreign government under any treaty or intergovernmental agreement; or

(3) the attainment of the objectives of any program lawfully undertaken under any statute of the United States.

(c) Each grant of any license made under paragraph (2) or paragraph (3) of subsection (a) shall be conditioned upon the submission by the grantee to the Administrator of an annual report which shall contain a full and complete disclosure of the nature and extent of the uses made of the invention to

which such grant relates during the preceding year. No such grant may be made unless the Administrator has prepared a written report which shall contain a full and complete (1) description of the nature and terms of the grant made, (2) statement of the objectives sought to be attained through the making of such grant, and (3) recital of the basis for his determination that such grant is not in derogation of the public interest and that the terms thereof adequately protect the interests of the United States. A copy of the report so made with respect to each such grant shall be retained by the Administration as a public record for a period of five years or for the period during which the grant so made continues in effect, whichever period is the longer.

(d) The Administrator shall deposit in the Treasury as miscellaneous receipts all royalties and other fees received under the provisions of grants made pursuant to this section, except that (to the extent auhorized by statutes enacted after the date of enactment of this Act) such receipts may be expended by the Administrator for the determination of the technical and commercial feasibility, and for the development, of inventions in which the United States has proprietary interests.

PROTECTION OF PROPRIETARY INTERESTS OF THE UNITED STATES IN INVENTIONS

SEC. 9. (a) Whenever an application is made to the Commissioner of Patents for a patent upon an invention made by an individual who at the time of the making of such invention was an officer or employee of the United States or any executive agency, such application shall be accompanied by a full and complete statement, executed under oath and prepared in such manner and form as the Commissioner shall prescribe, disclosing the relationship (if any) of the making of that invention to the performance by that individual of his duties as such officer or employee.

(b) Whenever an application is made to the Commissioner of Patents for a patent upon any invention made by any individual who at the time of the making of such invention was a party, or an officer, employee, partner, or other member of any organization which was a party, to any contract or lease executed or any grant made by or on behalf of any executive agency, such application shall be accompanied by a full and complete statement, executed under oath and prepared in such manner and form as the Commissioner shall prescribe, disclosing the relationship (if any) of the making of such invention to the performance of any obligation arising from any such contract, lease, or grant.

(c) A copy of each statement made under subsection (a) or subsection (b), and a copy of the application to which it relates, shall be transmitted promptly by the Commissioner to the Administrator. Upon any application as to which any such statement has been so transmitted, the Commissioner may, if he determines that the invention is patentable, issue a patent to the applicant unless the Administrator, within ninety days, after receipt of such application and statement and after consultation with the executive agency concerned, requests that any patent issued upon such invention be assigned without consideration to the Administrator on behalf of the United States. If, within such time, the Adminisrator files such a request with the Commissioner, the Commissioner shall transmit notice thereof to the applicant, and shall so assign to the Administrator any patent which may be issued upon that invention unless the applicant within a period of thirty days after receipt of such notice requests a hearing before a Board of Patent Interferences on the question whether the Administrator is entitled under the provisions of this Act to receive such assignment on behalf of the United States. If, within that period, the applicant requests such a hearing, the Board shall hear and determine, in accordance with rules and procedures established for interference cases, the question so presented. Its determination thereof shall be subject to appeal by the applicant or by the Administrator in accordance with procedures governing appeals from decisions of a Board of Patent Interferences in other proceedings.

(d) Whenever any patent has been issued to any applicant, and the Administrator thereafter has reason to believe that such applicant was obligated to file with his application the statement required by subsection (a) or subsection (b) but failed to file such statement, or that the statement which was filed by the applicant in connection therewith contained any false or misleading representation of any material fact, the Administrator within five years after the date of issuance of such patent may file with the Commissioner a request for the assignment to the Administrator of title to such patent on the records of the Commissioner. Notice of any such request shall be transmitted by the Commissioner to the owner of record of such patent, and title to such patent shall be so assigned to the Administrator unless within thirty days after receipt of such notice such owner of record requests a hearing before a Board of Patent Interferences on the question whether that invention was made under circumstances which entitle the Administrator to receive an assignment of title thereto under the provisions of subsection (a) or subsection (b). Such question shall be heard and determined, and determination thereof shall be subject to review, in the manner prescribed by subsection (c) for questions arising thereunder. No request made by the Administrator under this subsection for the assignment of any patent, and no prosecution for the violation of any criminal statute, shall be barred by any failure of the Administrator to make a request under subsection (c) for the assignment of such patent to him, or by any notice previously given by the Administrator stating that he had no objection to the issuance of such patent to the applicant therefor.

WAIVER OF PROPRIETARY INTERESTS OF THE UNITED STATES IN INVENTIONS

SEC. 10. (a) Under such regulations in conformity with the provisions of this section as the Administrator shall prescribe, he may waive all or any part of the proprietary rights of the United States under this Act with respect to any invention which has been made by any person or class of persons in the performance of any obligation arising under any contract or lease entered into, or any grant made, by or on behalf of any executive agency if—

(1) the Administrator has determined that—

(A) the contribution of funds, facilities, and proprietary information made or to be made by the recipient or recipients of such waiver to the making of that invention or class of inventions so far exceeds the contribution made thereto by the United States Government that equitable considerations favor the granting of such waiver; and

(B) the granting of such waiver would affirmatively advance the interests of the United States and would be consistent with the public policy declared by this Act; and

(2) the Administrator has received a written determination made by the Attorney General to the effect that the granting of such waiver would not facilitate—

(A) the growth or maintenance of monopolistic control by any person of any product or service, or any class of products or services, offered or to be offered for sale in the trade or commerce of the United States; or

(B) the concentration of economic power with respect to any part of the trade or commerce of the United States.

(b) Each such waiver must contain such terms and conditions as the Administrator shall determine to be effective—

(1) to insure that the recipient thereof will at his own expense—

(A) promptly apply for such domestic and foreign patents as the Administrator shall designate upon any patentable invention made in consequence of activities undertaken pursuant to such contract, lease, or grant;

(B) prosecute each such application diligently; and

(C) take such action as the Administrator shall determine to be required for the protection of each patent issued upon any such application and the interest retained by the United States therein;

(2) to permit the Administrator, in the event of the failure of the recipient thereof to fulfill any obligation undertaken in compliance with the requirements of paragraph (2), to take such action, at the expense of the recipient of such waiver, as the Administrator shall determine to be required for the fulfillment of such obligation;

(3) to reserve to the United States an irrevocable license for the practice of such invention, and the use of technical information relating thereto, throughout the world by or on behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States;

(4) in the case of any invention having present or potential commercial utility, to insure that—

(A) the recipient of such waiver within three years after the granting thereof will effectively develop any embodiment or process of such invention to the point of commercial utility and offer the benefits of the developed invention to the public in accordance with normal business practice; and

(B) the Administrator may revoke such waiver upon his determination that the recipient has failed to fulfill in all substantial respects the conditions imposed upon the recipient of the waiver pursuant to this paragraph; and

(5) to insure that the recipient thereof will take such other action as the Administrator may determine to be required for the protection of the interests of the United States and to be consistent with the public policy declared by this Act.

PROVISIONS OF GOVERNMENT CONTRACTS, LEASES, AND GRANTS

SEC. 11. (a) Except as provided by subsection (b), each contract, lease, and grant entered into or made by or on behalf of any executive agency which requires or contemplates the performance of any scientific or technological research, development, or exploration activity shall contain provisions determined by the Administrator with the written approval of the Attorney General to be adequate for the protection of the proprietary interests of the United States in inventions and scientific and technical information.

(b) The Administrator by regulations may except from the requirement of subsection (a) those contracts, leases, and grants, and those classes of contracts, leases, and grants which he has determined with the written approval of the Attorney General to involve no present or prospective proprietary interest of the United States in inventions or in scientific or technical information. No such exemption may be made unless the Administrator has prepared a written report containing a description of the nature and extent of such exemption, and a full and complete statement of the basis for his determination that the contracts, leases, or grants, or the classes of contracts, leases, or grants, described therein involve no present or prospective proprietary interest of the United States in inventions or in scientific or technical information. A copy of each

such report shall be retained by the Administration as a public record thereof during the effective period of every contract, lease, or grant of any class described therein and for not less than one year thereafter.

(c) Each contract or lease entered into by or on behalf of any executive agency with any person, and each grant made by or on behalf of any executive agency to any person, which is required by this section to contain provisions for the protection of the proprietary interests of the United States in inventions also shall contain provisions determined by the Administrator with the written approval of the Attorney General to be sufficient to require such person to furnish promptly to the Administrator, at such time or times as shall be prescribed in such provisions, full and complete technical information concerning any invention made in the performance of any obligation of such person under the terms of that contract, lease, or grant.

(d) Any person who, with knowledge of the existence of any obligation imposed pursuant to subsection (c) upon such person or any other person to furnish any technical information to the Administrator, (1) willfully withholds, attempts to withhold, or conspires with any other person to withhold such information from the Administrator, or (2) willfully fails to discharge any duty imposed upon him by law or otherwise to disclose, assemble, compile, prepare or transmit such information in compliance with the terms of such obligation, shall be fined not more than $10,000, or imprisoned not more than five years, or both.

(e) As used in this section, the term "person" includes any individual and any corporation, partnership, association, institution, or other legal entity.

AWARDS FOR CERTAIN INVENTIVE CONTRIBUTIONS

SEC. 12. (a) Upon application made by any person or upon the recommendation of the agency head of any executive agency, the Administrator is authorized to make a monetary award, in such amount and upon such terms as he shall determine to be warranted, to any person for any scientific, technical, or medical contribution to the United States which is determined by the Administrator to have significant value to national defense, public health, or any program administered by any executive agency pursuant to authorization conferred by any statute enacted by the Congress.

(b) Each application and recommendation made for any such award shall be referred to a board which shall be established within the Administration to evaluate the significance of such contribution, and which shall be composed of members determined by the Administrator to be qualified by training and experience to make such evaluation. Such board shall accord to each person who has made such application or has been recommended for such award an opportunity for hearing, and shall transmit to the Administrator a written report containing its findings of fact, its conclusions, and its recommendation as to the terms of the award, if any, which should be made to such person for such contribution.

(c) In determining the terms and conditions of any award to be made under this section, the Administrator shall take into account—

(1) the value of the contribution to the United States;

(2) the extent to which the person concerned has devoted his private funds, facilities, proprietary information, and personal effort to the development of such contribution;

(3) the amount of any other compensation (other than salary received for services rendered as an officer or employee of the United States or any executive agency) received or to be received by such person for or on account of the use of such contribution by the United States; and

(4) such other factors consistent with the public policy declared by this Act as the Administrator shall determine to be material.

(d) If more than one person claims an interest in the same contribution, the Administrator shall ascertain and determine the respective interests of such persons, and shall apportion any award to be made with respect to such contribution among such persons in such proportions as he shall determine to be equitable. No award may be made under this section to any person with respect to any contribution—

(1) unless such person surrenders, by such means as the Administrator with the written approval of the Attorney General shall determine to be effective, all claims which such person may have to receive any compensation (other than the award made under this section) for the use of such contribution or any element thereof at any time by or on behalf of the United States, or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or at any other place; or

(2) in any amount exceeding $100,000, unless the Administrator has transmitted to the appropriate committees of the Congress a full and complete report concerning the amount and terms of, and the basis for, such proposed award, and thirty calendar days of regular session of the Congress have expired after receipt of such report by such committees.

TRANSFER OF FUNCTIONS

SEC. 13. (a) All functions, powers, duties, and obligations; all officers, employees, property, and records; and all unexpended balances of appropriations, allocations, and other funds (available or to be made available), of the following agencies or parts of agencies, are hereby transferred to the Administration:

(1) the Government Patents Board established by Executive Order Numbered 10096 promulgated January 23, 1950 (15 F.R. 389); and

(2) those elements of the Department of Commerce or any other executive agency which the Director of the Bureau of the Budget shall determine to be engaged primarily in the performance of functions which by this Act are made functions of the Administration.

(b) This section shall take effect on the effective date prescribed by section 15 of this Act, or on such earlier date on which the Administrator determines, and announces by proclamation published in the Federal Register, that the Administration has been organized and is prepared to exercise the powers conferred and discharge the duties imposed upon it by this Act.

TECHNICAL AMENDMENTS

SEC. 14. (a) The Federal Property and Administrative Services Act of 1949, as amended, is amended by—

(1) striking out in section 3(d) thereof (40 U.S.C. 472(d)) the words "and (3) records of the Federal Government", and inserting in lieu thereof the words "(3) proprietary interests of the United States in inventions under the Federal Inventions Act; and (4) records of the Federal Government"; and

(2) inserting at the end of section 302 thereof (41 U.S.C. 252) the following new subsection:

"(f) All purchases and contracts for property and services shall be made in compliance with the requirements of the Federal Inventions Act."

(b) Title 10 of the United States Code is amended by adding at the end of section 2306 thereof the following new subsection:

"(g) All purchases and contracts subject to the provisions of this chapter shall be made in compliance with the requirements of the Federal Inventions Act."

(c) The National Aeronautics and Space Act of 1958 is amended by—

(1) striking out sections 305 and 306 thereof (42 U.S.C. 2457–2458); and

(2) inserting at the end of section 203 thereof (42 U.S.C. 2473) the following new subsections:

"(c) For the purposes of chapter 17 of title 35 of the United States Code the Administration shall be considered a defense agency of the United States.

"(d) All contracts, agreements, arrangements, conveyances, and grants entered into or made by the Administration shall be subject to the requirements of the Federal Inventions Act."

(d) The Atomic Energy Act of 1954 is amended by striking out section 152 thereof (42 U.S.C. 2182), but nothing contained in this Act shall affect or impair the provisions of sections 151, 153, 154, 155, 156, 157, 158, 159, or 160 of the Atomic Energy Act of 1954 (42 U.S.C. 2181 and 2183–2190, inclusively), or any authority conferred upon the Atomic Energy Commission by such sections.

(c) The Act of May 28, 1933 (48 Stat. 58) as amended (establishing the Tennessee Valley Authority) is amended by—

(1) striking out the colon which appears first in subsection 5(i) thereof (16 U.S.C. 831d(i)) and all thereafter down to the period at the end of such subsection; and

(2) adding at the end of the first paragraph of subsection 9(b) thereof (16 U.S.C. 831h(b)) the following new sentence: "All purchases and contracts for supplies or services shall be made in compliance with the requirements of the Federal Inventions Act."

(f) The National Science Foundation Act of 1950 is amended by—

(1) striking out section 12 thereof (42 U.S.C. 1871); and

(2) adding at the end of section 15 thereof (42 U.S.C. 1873) the following new subsection:

"(j) Every contract, lease, grant, agreement, understanding, or other arrangement made or entered into by or on behalf of the Foundation shall be subject to the requirements of the Federal Inventions Act."

(g) The seventh sentence of section 10(a) of the Act of June 29, 1935, as added by section 101 of the Act of August 14, 1946 (60 Stat. 1085, as amended; 7 U.S.C. 427i(a)), relating to agricultural research, is amended to read as follows: "Any contract, lease, grant, agreement, understanding, or other arrangement made or entered into pursuant to this authority shall be subject to the requirements of the Federal Inventions Act."

(h) Section 32 of the Arms Control and Disarmament Act (75 Stat. 634; 22 U.S.C. 2572) is amended to read as follows:

"SEC. 32. All purchases, contracts, and grants made or entered into pursuant to any authorization conferred by this Act shall be made or entered into in compliance with the requirements of the Federal Inventions Act."

(i) Section 4(b) of the Act of July 3, 1952 (66 Stat. 329, as amended; 42 U.S.C. 1954(b)), is amended to read as follows:

"(b) All research within the United States contracted for, sponsored, cosponsored, or authorized pursuant to this Act shall be subject to the provisions of the Federal Inventions Act."

(j) The first sentence of section 6 of the Act of July 7, 1960 (74 Stat. 337), relating to coal research and development, is amended to read as follows: "Any contract, lease, grant, agreement, understanding or other arrangement made or entered into pursuant

to this Act shall be subject to the provisions of the Federal Inventions Act."

(k) Section 4 of the Helium Act, as amended by the Helium Act Amendments of 1960 (74 Stat. 920), is amended by striking out all matter following the words "under authority of this Act", and inserting in lieu thereof the words "shall be subject to the provisions of the Federal Inventions Act."

(l) Section 4(b) of the Act of July 3, 1952 (66 Stat. 328, as amended; 42 U.S.C. 1954 (b)), relating to the conversion of saline water, is amended by striking out all matter following the words "under authority of this Act", and inserting in lieu thereof the words "shall be subject to the provisions of the Federal Inventions Act."

(m) Section 303 of the Water Resource Research Act of 1964 (78 Stat. 332) is amended by striking out all matter following the words "unless such expenditure is", and inserting in lieu thereof the words "made in compliance with the provisions of the Federal Inventions Act."

(n) Section 301 of the Communications Satellite Act of 1962 (72 Stat. 419; 47 U.S.C. 731) is amended by inserting therein, immediately after the second sentence thereof, the following new sentence: "All purchases and contracts of the corporation for or upon which any payment is made or to be made from any funds appropriated by the Congress or furnished directly or indirectly by any department, agency, or instrumentality of the United States shall be subject to the provisions of the Federal Inventions Act."

EFFECTIVE DATE

SEC. 15. (a) This Act shall take effect on the first day of the fourth month beginning after the date of enactment of this Act except that sections 2, 4, and 5 thereof shall take effect on the date of enactment of this Act.

(b) The provisions of this Act shall not apply to any invention related to the performance of obligations arising under any contract or lease entered into or grant made by or on behalf of any executive agency other than the Atomic Energy Commission or the National Aeronautics and Space Administration at any time before the effective date of section 3 of this Act, or to any amendment, modification, or extension of any such contract, lease, or grant if that amendment, modification, or extension is entered into within one year after the date of enactment of this Act. Each such contract, grant, modification, or extension shall be governed by applicable law in effect on the day preceding the date of enactment of this Act.

APPROPRIATIONS

SEC. 16. There are hereby authorized to be appropriated to each department and agency of the Government charged with any responsibility under this Act such sums as may be required to carry into effect the provisions of this Act which are applicable to that department or agency.

Mr. LONG of Louisiana. Mr. President, discussing the general philosophy and possible results of improper government patent policies is a fine article which appeared recently in the Federal Bar Journal for the winter, 1965, written by Benjamin Gordon, staff economist for the Committee on Small Business, entitled "Government Patent Policy and the New Mercantilism." I believe it well points out how erroneous is the policy and how completely outdated is the philosophy that the Government should help establish private monopolies with public funds.

I ask unanimous consent that this article be printed at this point in the RECORD.

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

GOVERNMENT PATENT POLICY AND THE NEW MERCANTILISM

(By Benjamin Gordon*)

The practice of some Government agencies in giving patents of monopoly to private contractors on the results of publicly financed research and development suggests a similarity to the type of economic system; namely, mercantilism, which existed in England before the establishment of what we call the free, competitive enterprise system. The aim of this article is to show the close similarity of the present system to certain features of the mercantile system. It would not be improper to call our present system the new mercantilism or neomercantilism.

Research and development, the production of new scientific and technological knowledge, is the fastest growing industry in the United States. It could be the largest single contributor to the increase in our national output. The introduction of new technology can mean construction of modern plants, the installation of more efficient equipment, and the employment of more workers. And yet, never has so much money been spent by the Government with so little consideration for its ultimate social and economic consequences.

GOVERNMENT CONTRIBUTION TO THE NATION'S R. & D.

Of all the production of new scientific and technological knowledge in our society, the people of the United States through their Government pay for 70 percent, according to the latest figures available. The Federal Government now spends more for research and development each year than it did for a total of all years from the American Revolution through the end of World War II. In fact, we now spend an average of about $35 million a day in fiscal 1963 and about $41 million a day in fiscal 1964, which is more than was spent in any one year before the military effort during World War II.

There is good reason to believe that the public's stake in total R. & D. is even greater than 70 percent. The reason for this is that industry in many cases is merely reclassifying traditional outlays in terms of the now fashionable "research and development" effort. A good illustration is the development of nylon, the cost of which is claimed to be about $1,960,000.[1] Included in this figure is $782,000 [2] for sales development. There is no reason to doubt that included in industry's 30 percent of R. & D. are large sums for such purposes as sales development and promotion and market research. This means that the private sector is paying a smaller share than the published figures indicate, and the public is paying a much greater share of actual research and development than the 70 percent mentioned before—perhaps even as much as 80 percent.

Since the Government is the major contributor to the development of new scientific and technolcgical knowledge, the policies regarding the disposition of rights arising out of work done under Government contracts will inevitably have a serious effect on the growth and the competitive structure of the American economy in the years to come.

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* Staff Economist of the Senate Select Committee on Small Business; A.B., Harvard, 1938, M.A., University of Chicago, 1951.

[1] "The Rate and Direction of Inventive Activity," Report of the National Bureau of Economic Research 336–337 (1962).

[2] Ibid.

GOVERNMENT PATENT POLICY

The U.S. Government's research and development efforts are massive. In fiscal 1963 about $15 billion was spent in this field with considerable scientific and technical knowledge being generated. The results of this great public effort are largely being handed over to the giant corporations that receive the bulk of the funds. Other companies—the smaller ones—and other industries which might put this new knowledge to good use, perhaps in unforeseeable as well as entirely expected ways, are effectively denied use of the new scientific and technical information being developed. What is even worse is that many of the discoveries that are being made each day—both major and minor ones—are not being exploited by anyone at all, not even those corporations which have received them as gifts from the Government.

Although Government patent policies vary in accordance with the contracting agency or department, the largest amount of funds comes from the Department of Defense. The policy of the Department of Defense consists of giving to the contractor patent monopolies on inventions or developments resulting from publicly financed research. This policy is also being adopted in large measure by the National Aeronautics and Space Administration by administrative regulations even though the apparent intent of the National Aeronautics and Space Act of 1958 was to give title to the contractor only in exceptional cases.

A contractor's retention of title to inventions resulting from the performance of a contract has never been normal business practice. Ordinarily, a contractor hired to perform research for another firm does not receive title to such inventions as he might develop in performing the contract. The party that hires him determines which, if any, of these inventions should be patented, and titles to any patents issued are assigned to that party. The idea that a resarch contractor should acquire for himself the right to exclude others from the use of such an invention is itself a rather interesting invention.

MERCANTILISM

Mercantilism is the name given to the economic policies of Europe between the Middle Ages and the development of free, private enterprise or the system of economic freedom. Although ideas on the balance of trade and the significance of money occupy a central position in mercantilism, the establishment of monopolies was a very important part of the system. Of these monopolies the external ones attracted the most attention, although the internal monopolies included a greater variety of objectives and greater complication of motives.

There were many reasons for establishing monopolies under royal sanction, but the principal one probably was that it was hoped that it would be the means of encouraging new or weak domestic industries. In addition, the fewer the productive units the easier it was to control the economic activities of the nation, for the dominant interest of the national state was to assert the right of the state to regulate economic affairs.

Before the middle of the 16th century the industrial patents granted in England were merely promises of protection to foreign workmen as an incentive to introduce new arts, especially those connected with the clothing trades. The practice of early Tudor monarchs, in encouraging the introduction of new arts, was to attract skilled artisans into their own service. In this way German armorers, Italian shipwrights and glassmakers, and French iron founders were induced to establish new industries in England with the hope of royal patronage.

Queen Elizabeth tried to foster a system of national regulation and to stimulate new industries by increasing the extent and effectiveness of the monopolies. The period covered by the reigns of Elizabeth, James I, and Charles I was actually not the beginning of industrial monopoly: whereas heretofore monopolies had been granted on a local basis, in this period the system of royal monopolies was an attempt to reconstitute them along national lines.

PURPOSES OF MONOPOLY GRANTS

The numerous and varied monopoly grants by the Crown cannot be explained by any single motive. The desire to encourage invention, financial considerations, and the desire to reward her servants and favorites must all be considered as influencing the monopoly policy of Queen Elizabeth. Originally, the encouragement of invention was regarded as one of the chief public concerns. As the years passed, however, this consideration had diminishing weight in patent policy. The patents of monopoly or privilege were usually granted as a result of a petition on the part of someone who had a selfish interest in the grant. In addition, a petitioner was more certain of success in getting a grant if he could show that central control of industry would result from his privilege.

An interesting fact about the monopoly grants is that it was the monarchy that created them—contrary to the common law—but the justification given was that these monopolies existed for the preservation of "good order and government." The justification these days is exactly the same, although the words "in the public interest" are different. In addition, it was the Parliament that fought against monopoly. Monopolies were considered contrary to the traditional rights of every Englishman. In our own day it is the Congress which plays this role. Whenever Congress has legislated on this subject, title generally went to the public, the private corporation getting exclusive rights only in exceptional cases. This is illustrated by specific legislative provisions relating to the Tennessee Valley Authority, Department of Agriculture, the Atomic Energy Commission, and the National Aeronautics and Space Administration. Recent legislation includes the Coal Research and Development Act,[3] the Saline Water Act,[4] the Arms Control Act,[5] the Helium Gas Act,[6] and others. It was only when the law was silent that the executive branch of the Government granted monopoly rights to private persons. Both the Department of Defense and the Department of Commerce are good examples of this. Furthermore, the National Aeronautics and Space Administration, taking advantage of a provision in the law allowing it to grant monopolies when it believed that it was in the public interest to do so, found it in the public interest to waive title on a wholesale basis. A recent example of NASA's enthusiasm in granting monopoly privileges is the granting of its first exclusive patent license for a 7-year period. What is especially significant about this example is that the invention was a product of a Government employee working in a Government installation.[7]

During the 17th century, when the state issued patents of monopoly or privilege, the state shared in the profits. The monopoly was employed by its owner to demand higher prices than he would have been able to get otherwise. The system thus involved an indirect taxation of goods—both consumers' and producers'—in the financial interests of the state. It was an indirect taxation of consumption by means of a monopoly, not in the hands of the State, but wielded by private individuals.

Similarly, under a large part of U.S. Government patent policies the public is first taxed to pay for the research and development on the grounds that such research promotes the general welfare, and then the public is taxed again through monopoly profits when it purchases or uses the commodities embodying the research and development it originally paid for, which amounts to public taxation for private privilege. Contrary to the practice of the 17th century, however, the state in our day does not share in the profits. The private corporation pockets the whole thing.

SOME RESULTS OF GOVERNMENT-CREATED MONOPOLIES

By the end of the 1650's there was an extreme antimonopolist tendency. Monopoly was regarded as "a cause of all dearth and scarcity in the Commonwealth" and as being opposed to the nature of society and the development of cities the aim of which was "to live in plenty and cheapness."

An illustration of the results of a Government-created monopoly is the complaint against the Newcastle Coal monopoly in April 1650 by the Lord Mayor of London. He stated that as a result of the monopoly the price went up from 4 shillings to 9 shillings, but even worse was that the buyers had to take both the good and bad "cole" together. The monopoly created a "scarscitie as mae best serue for theire advantage, Albeit the said mynes will afforde great plentie without feare of future want of the commodite." [8]

A good example of cloaking the private interest with the interest of the public is to be found in a 1591 petition of John Thornborough, Dean of York, for a patent grant to control the export of coal and to levy a duty. The justification given was that the best coal was being transported from London, a practice which should be discontinued for the benefit of all. It was seen, however, that this amounted to a "generall restrainte of transportinge of all manner of coles" and that what was really wanted was that "none shalbe transported but by my lycense." [9] In other words, good coal can also be transported if a fee is paid.

The mercantilists, nevertheless, talked about freedom of trade and a harmony of interests, but these sentiments were not always taken literally by them. It was generally a question of beautiful phrases ready at hand to serve some particular interest or other. Their outlook was not free from contradiction or confusion. For example, the mercantilists were interested in increasing trade in general and foreign trade in particular, and yet they were continually striving to obstruct imports.

This confusion of ends is not absent in the present-day patent policies of agencies of our Government. For example, on the one hand, it is the stated purpose of the National Aeronautics and Space Administration to make more widespread the use of developments financed by the public. This is done, however, through the granting of patents of monopoly to private corporations which would enable them to restrict the use in order to control prices and profits. Besides, there is no assurance that the development will be used at all. All this is done supposedly in the interests of the public.

The coal monopoly in the 17th century was also granted in the public interest, but it didn't turn out that way: "By which means the said Act of parliament that first was deuised for the reasonable helpe and maintenaunce of the said Towne, but directed in deede to the publique good of this whole Realme, is now peruerted and abused by them to the immoderatt gaine of the said Towne with the hurt and preiudice of this whole Realme." [10]

The evil features and abuses of the monopolies owed their origin to the importunities of influential people close to the Crown. Although Queen Elizabeth was not very anxious to part with her treasure, she was willing to bestow valuable patents on her pensioners, favorites, personal servants, petty officers, and clerks. Grants to the servants of the Queen's household and to clerks were conferred in lieu of salaries. This aspect has been brought over to the 1960's in Government patent policies. One of the arguments advanced by those who favor liberal grants by the Government of patents of monopoly or privilege is that the profits as percentage of the contract price are not as high as they would like them, and hence the monopoly grants serve to make Government-financed research and development more attractive.

The patent for the manufacture of white salt, which was assigned to Thomas Wilkes on February 20, 1556, was typical; it was a reward for his service and was the principal part of his maintenance. "The system of monopolies, designed originally to foster new arts, became degraded into a system of plunder." [11]

A great hue and cry was raised against the monopoly on salt as an infringement on liberty not to be able to buy and sell salt wherever anyone wished. It was regarded as contrary to the rights of a freeman to prevent anyone from converting his salt pit to its best use. A typical complaint was that: "The Price of salte is raysed by the Lycence. And the assignes have taken excessyve gaines." [12]

DEBATE ON MONOPOLIES IN 1601

In the debate on monopolies in the House of Commons in 1601, Sir Edward Stanhop informed the House of the great abuse by the patentee for salt in his country, "that betwixt Michaelmas and Saint Andrews tide, where salt was wont, before the patent, to be sold for 16 pence a bushel, it is now sold for 14 and 15 shillings a bushel. * * *" [13]

It was also revealed that the issuance of patents of monopoly resulted in a large increase in the prices of commodities and in large decreases in their quality. Steel, which had sold at "Two pence half penny the pound before the patent, it is now 5 pence the pound. And where 2,000 poor people were maintained, by working of steel and edge-tooles and might well live by working thereof at 2 pence half-penny the pound, they are now not able, by reason of the price thereof, to work; but now many go a begging, because the faggot hath also less weight, to the utter undoing of all edge-toole makers." [14] In the case of steel, apparently, the consequences of granting the patent of monopoly was to raise the price considerably, thus reducing the amount of the commodity demanded and increasing the unemployment of many laborers.

What was true for steel was also true for starch, playing cards, stone bottles, pots, brushes, glasses, beer, vinegar, and many other commodities.

PROCLAMATION AGAINST MONOPOLIES

Queen Elizabeth had granted many patent privileges and licenses hoping they would

[3] 74 Stat. 336 (1960), 30 U.S.C. 661.
[4] 75 Stat. 628 (1961), 42 U.S.C. 1951.
[5] 75 Stat. 631 (1961), 22 U.S.C. 2551.
[6] 74 Stat. 918 (1960), 50 U.S.C. 167.
[7] NASA News Release No. 64-30, Feb. 6, 1964.

[8] Complaint of the Lord Mayor of London against the Newcastle Coal Monopoly, c. April 1590; Tawney, "Tudor Economic Documents," 268 (1924).
[9] Petition of John Thornborough, Dean of York, for a patent to control the export of coal and to levy a duty, 1591; id. at 271–275.

[10] Complaint of the Lord Mayor of London against the Newcastle Coal Monopoly, c. April 1590; id. at 267–271.
[11] Price, "The English Patents of Monopoly," 17 (1913).
[12] 2 Tawney, supra note 8, at 257–262.
[13] Id. at 278.
[14] Id. at 280–281.

tend to the common good, or, as we say it now, advance the public interest. The monopolies did not have this effect, however. Instead, the grants were abused "to the great loss and grievance of the people." On November 28, 1601, therefore, the Queen issued "A proclamation for the reformation of many abuses and misdemeanours committed by patentees of certaine priuiledges and licences, to the generall good of all her maiesties louing subjects." The effect was to "further expresly charge and command all the said Patentees and all and every person and persons, claiming by, from or vnder them doe not at any time hereafter presume or attempt to put in use or execution any thing therein contained vpon paine of her highnesse indignation, and to bee punished as contemners and breakers of her royall and princely commandement." [15]

The above proclamation was issued against the more obnoxious of the patent monopolies. Those that remained were left to the common law free from any clause of restraint thus entrusting to the courts of the law the responsibility of deciding what grants should be allowed to stand.

THE FREE PRIVATE ENTERPRISE SYSTEM: A REACTION TO MERCANTILISM

The great contribution of the classical economists was their vigorous attacks on the mercantile system and their advocacy of what has been called the system of economic freedom. Adam Smith called monopoly the sole engine of the mercantile system which had a pernicious effect on society. The regulator of the marketplace was to be competition, which would prevail if supply positions were not licensed or made the subject of exceptional privilege. The free private enterprise system was based on the doctrine of self-interest within a competitive environment. The classical economists did not think that government interference was necessarily justified by superior knowledge on the part of the government.

Government restrictions, according to Smith, were injurious, doing harm where they sought to do good. They prevented the free flow of capital and labor from less advantageous to more advantageous employments. The solution was to be found in economic freedom: "It is thus that every system which endeavors, either by extraordinary encouragements to draw toward a particular species of industry a greater share of the capital of the society than what would naturally go to it; or by extraordinary restraints, to force from a particular species of industry some share of the capital which would otherwise be employed in it; is in reality subversive of the great purpose which it means to promote. It retards, instead of accelerating, the progress of the society toward real wealth and greatness; and diminishes, instead of increasing, the real value of the annual product of its land and labor.

"All systems either of preference or of restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man, or order of men. The sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient; the duty of superintending the industry of private people, and of directing it toward the employments most suitable to interest of the society." [16]

A series of writers developed Smith's ideas. John Stuart Mill, although admitting the possible validity of the formal argument for giving incentives and protecting new industries, stated that the older he got the more shocked he became at the uses to which this argument was put. He confessed that: "I am now much shaken in the opinion, which has so often been quoted for purposes which it did not warrant, and I am disposed to think that when it is advisable, as it may sometimes be, to subsidize a new industry in its commencement, this had better be done by a direct annual grant, which is far less likely to be continued after the conditions which alone justified it have ceased to exist." [17]

CONCLUSIONS

A study of many documents from the mercantile period in England (and in France) reveals innumerable close similarities to present-day governmental policies concerning the establishment of monopolies.

The practice of many agencies of Government of handing over to private corporations patents of monopoly or privilege on the results of publicly financed research parallels in many ways governmental policies in England (and other European countries, too) during the mercantile period. The system of economic freedom was a protest against this system.

The essential achievement of the system of economic freedom or the free competitive enterprise system was that it had an eye on the human, an outlook poles apart from mercantilism. Toward the end of the 18th century, there was a growing humanitarian spirit, although it took almost a whole century for this spirit to be embodied in legislation. Nevertheless, it was one of the powerful forces which undermined the mercantilist system.

At present our system has two aspects: one pointing to economic freedom and the other to its precise opposite. An indication of our devotion to the system of economic freedom is the interest in the consumer, weak though it may be, and the tendency to make private interests serve the interests of the community.

This tendency fades into the background behind the policies of establishing and extending monopolies through grants by the Government. The recent establishment of a private monopoly for space communications is another example of this tendency. The talk about economic liberty and competition appears to be music lingering from the past.

One of the areas where our present-day system and mercantilism resemble each other is that, in practice, both to a large extent deny that consumption is the ultimate end of economic activities and that production is only a means to that end. Mercantilism was characterized by the view of production as an end in itself. It was dominated by a regard for different groups of producers, forcing consumers to make the most of whatever consequences follow from these considerations.

If this comparison elicits the reply that the national interest requires monopoly grants as a necessary stimulation of enterprise, the question arises whether the price we are paying is far too heavy even if the means could secure the end, for involved is the sacrifice of the citizens' economic freedom.

EXHIBIT 1

APRIL 4, 1965.

Hon. RUSSELL B. LONG,
Senate Office Building,
Washington, D.C.:

A recent article in Science has called my attention to your work on a comprehensive patent policy for federally financed research. I would like to point out a situation which has a bearing on this policy.

There is deep irony when a large corporation screams foul about incentive being killed as a result of the Government's claiming partial patent rights on the basis of Federal support of the research work. The large corporations have been using this same argument for years to claim entire right to all ideas an individual engineer may have as an employee. You now have the picture of two giants fighting over a piece of property while the creator of that property is standing meekly on the sidelines. I am trying to speak for him.

Our Founding Fathers had deep wisdom and penetrating insight when they inserted the following paragraph into the Constitution: The U.S. Constitution, article I, section 8, paragraph 8—

"To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries."

They could see that protecting an inventor's rights does more than define what belongs to him. It stimulates innovation. It provides an incentive for him to invest his heart, mind, sweat, and soul in developing his ideas. It permits him to reap the just reward of his labors by giving him the right to profit from his inventions. Without patent protection, innovation of new, more effective ways of doing things is discouraged; for why should a man try to invent when his ideas will be exploited by others?

Innovation creates wealth because it increases productivity. Take, for example, a nailmaking machine. Before this machine, nails were made by blacksmiths at the forge. It takes little imagination to see the manifold increase in productivity that such a machine can give. This machine was conceived and built by an inventor, an individual, at no small cost in mental and physical labor. Why is our economy sluggish? It is because such men are no longer encouraged; they are discouraged by the policies of corporations.

An engineer has practically no alternative but to work at some time for a corporation and there are virtually no corporations which do not require the signing of a Faustian patent agreement. The following is a sample of such an agreement required by a large corporation. (See enclosure.)

I hereby assign to the corporation my entire right, title, and interest in any invention or idea, patentable or not, hereafter made or conceived solely or jointly by me:

(a) While working in the corporation in an executive, managerial, planning, technical, research or engineering capacity (including development, manufacturing, systems, applied science, sales and customer engineering); and

(b) Which relates in any manner to the actual or anticipated business of the corporation or its subsidiaries, or relates to its actual or anticipated research and development, or is suggested by or results from any task assigned to me or work performed by me for or on behalf of the corporation.

I am a physicist for this corporation and have a personal interest in patent policy, but I also believe that it goes far beyond me. There are thousands of scientifically and technically trained people who would bring their ideas to fruition if only they could be assured of reaping the fruits of the labor.

I cannot conceive of any man with a sense of justice not finding this patent agreement at variance with Article I of the Constitution of the United States.

EMPLOYEE CONFIDENTIAL INFORMATION AND INVENTION AGREEMENT

(To be signed by all employees on the first day of employment)

In consideration of my employment by ———.

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[15] Id. at 292–295.

[16] Adam Smith, "Wealth of Nations," 650–651 (Modern Library ed. 1937).

[17] 2 "Letters of John Stuart Mill," 155 (Hugh Elliot ed. 1910).

1. I will not disclose to anyone outside of ——— or use in other than ——— business, any confidential information or material relating to the business of ——— or its subsidiaries, either during or after my ——— employment, except with ——— written permission.

2. I will not disclose to ———, or induce ——— to use, any confidential information or material belonging to others.

3. I will comply, and do all things necessary for ——— to comply, with U.S. Government regulations, and with provisions of contracts between the agencies of the U.S. Government or their contractors and ——, which relate either to patent rights or to the safeguarding of information pertaining to the defense of the United States.

4. I hereby assign to ——— my entire right, title and interest in any invention or idea, patentable or not, hereafter made or conceived solely or jointly by me:

(a) while working in ——— in an executive, managerial, planning, technical, research or engineering capacity (including development, manufacturing, systems, applied science, sales and customer engineering); and

(b) which relates in any manner to the actual or anticipated business of ——— or its subsidiaries, or relates to its actual or anticipated research and development, or is suggested by or results from any task assigned to me or work performed by me for or on behalf of ———;

except any invention or idea which I cannot assign to ——— because of a prior invention agreement with ——— which is effective until ——— (Give name and date or write "none").

5. I agree that in connection with any invention or idea covered by paragraph 4:

(a) I will disclose it promptly to the local ——— patent operations manager; and

(b) I will, on his request, promptly execute a specific assignment of title to ———, and do anything else reasonably necessary to enable ——— to secure a patent therefor in the United States and in foreign countries.

6. I represent that I have indicated on the back of this form whether or not I have any inventions or ideas, not covered by paragraph 4, in which I have any right, title, or interest, and which were previously conceived either wholly or in part by me, but neither published nor filed in the U.S. Patent Office, and identified all of these.

(It is in your interest to establish that any such inventions or ideas were made before employment by ———. You should not disclose such inventions or ideas in detail, but only identify them by the titles and dates of documents describing them. If you wish to interest ——— in such inventions and ideas, you may submit them to ——— in accordance with the provisions outlined in ———.)

7. I acknowledge receipt of a copy of this agreement, and agree that with respect to the subject matter hereof, it is my entire agreement with ———, superseding any previous oral or written communications, representations, understandings, or agreements with ——— or any official or representative thereof.

Witness _____
(Employee's manager or other appropriate ——— representative)

Signed _____
(Employee's full name)

Date _____

The following are inventions or ideas, not covered by paragraph 4, in which I have any right, title, or interest, and which were previously conceived either wholly or in part by me, but neither published nor filed in the U.S. Patent Office: (Indicate below or write "None"). _____

Description of documents (if applicable):
Title on document.
Date on document.
Name of witness on document.

Signed _____
(Employee's full name)

Date _____

EXHIBIT 2

TENNESSEE VALLEY AUTHORITY,
Knoxville, Tenn., February 4, 1965.

Hon. RUSSELL B. LONG,
U. S. Senate,
Washington, D.C.

DEAR SENATOR LONG: When the enclosed letter came to me a few days ago, my thoughts went back to the day, nearly 2 years ago, when I appeared before your committee in the hearings on Government patent policy.

You will recall we discussed the fact that new processes developed by TVA in its fertilizer research are patented by TVA; that these patents are made available to the fertilizer industry on a royalty free, nonexclusive basis; and that, as a result of this policy, farmers are getting more and better chemical fertilizers and at lower prices than they did 10 or 12 years ago.

We also discussed the special importance of TVA's research and its patent policy to the smaller concerns manufacturing fertilizer. At the time of the hearing 170 of the 207 companies licensed to use TVA patents were in the category of small businesses, and I pointed out our belief that many of those small manufacturers would not have been able to stay in business without the benefits of TVA's research and the use of our patents.

The enclosed letter from the Ouachita Fertilizer & Grain Co. is such an illuminating testimonial to many of the points we discussed in your hearing that I feel sure you will be interested to see it. Incidentally, the polyphosphates referred to represent a promising family of fertilizers, new since our discussion, so I can assure you that our work in this field is continuing to show results.

Sincerely yours,

AUBREY J. WAGNER,
Chairman.

OUACHITA FERTILIZER & GRAIN CO., INC.,
Monroe, La., January 25, 1965.

Mr. A. J. WAGNER,
Chairman, Board of Directors, Tennessee Valley Authority, Knoxville, Tenn.

DEAR MR. WAGNER: The recent trend in the fertilizer industry continues, and it appears that small independent manufacturers such as our own firm will be at an even greater disadvantage in the future. We are calling this to your attention in order to emphasize the importance of TVA's continuing its cooperation with these small independents and the farmers we serve.

In the present situation, a number of major companies will approach an independent to see if he wants to sell his business. If the independent prefers to remain as he is, the major companies seem less interested than before in supplying him, with fringe benefits included. Privately, they confirm that they are working toward captive distribution, and once they attain their objective, the unpredictable requirements of the independent will not be important to them. Those major companies who preferred to supply independents have been forced to abandon this position. So one of our concerns is supply. Phosphate is the material we worry about, polyphosphates in particular.

Perhaps you are aware that when we first thought of using wet-process acid for our liquid mixtures, the only encouraging reports we saw were printed in various trade journals describing TVA's work with superphosphoric acid. We came to your plant and laboratories at Wilson Dam, and observed the research and development work. Actually, your staff made trials of a number of formulations we were interested in, and they gave us samples for observation. Today our company, under free license from TVA, uses that information and some TVA polyphosphate with commercial wet-process acid in making low-cost liquid fertilizer—lower than any other method available to small businesses such as ours. TVA has been the only source of a satisfactory sequestrant which provides the only means for use of wet acid. We take very little credit for achievements in the field of production. We owe most of our success to TVA, and we believe that the industry should recognize TVA for making major contributions to liquid fertilizer technology—the use of which is considerably enhanced by your supplying new materials. Those of us too small to afford technical staffs are particularly grateful recipients of your development information.

Formerly, when majors were in the business of selling independents raw materials, they supplied technical information and did product development work for their customers, the independents. Now, this activity is largely proprietary. So another concern is our inability to keep up in new product development. We, and most of the other small independent fertilizer manufacturers, are almost entirely dependent upon TVA for this important function.

Will we be able to depend on TVA in the future to supply materials not available from industry, and to carry out research and do product development work for the small companies who have no facilities for this type activity? The answer to the above will have considerable bearing on our future planning. We will appreciate your carefully considered opinion.

Sincerely yours,

NELSON O. ABELL,
President.

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

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

THE SITUATIONS IN VIETNAM AND THE DOMINICAN REPUBLIC

Mr. LONG of Louisiana. Mr. President, this morning the President of the United States called to the White House members of three important committees of the Senate and the House of Representatives. He pointed out to them the reasons why he felt it necessary for this Nation to stand firm in Vietnam and to evacuate civilians of this Nation and others who were caught in the unfortunate situation that developed in the Dominican Republic.

The President went into considerable detail to explain the problems in both those instances and indicated how much he felt the support of the Congress and of the American people was needed in the effort of the Chief Executive to maintain peace in the world and in defending those who have common interests with us against Communist subversion and Communist overthrow.

This Senator was pleased to see the standing ovation from the large number of Representatives and Senators who were members of those important committees when the President explained this Nation's position and the steps that had been taken to seek peace and to pre-

serve the liberty of this Nation and that of friendly nations.

The President asked that we appropriate an additional $700 million to pay the expense of the defense of freedom in Vietnam and in the Dominican Republic.

I am pleased to see that congressional leaders—both in the Senate and in the House—have given assurances that the President's request will be considered in short order. I would hope no Member of Congress would vote to deny our men the necessary weapons and support to carry out their orders to protect this Nation's vital interests. Therefore, I hope that Congress will vote for the appropriation by an overwhelming majority.

The show of unity behind the President's position in providing funds for these basic needs and for our fighting forces will make an impression on those who think that through terrorist tactics, by the murder of innocent civilians, by attack on our installations, they can keep pressure on this Nation, and that by so doing they will cause this Nation to capitulate in its efforts to preserve freedom and to preserve the position of all free nations on the earth.

There are some who differ with the President's policies. Perhaps some can find some reason for disagreement in one detail or another. But there is no doubt in my mind that the overwhelming majority of the American people and the overwhelming majority of Members of the Congress stand solidly behind the President in his efforts to see that no more nations are taken over by the Communist conspiracy in this hemisphere, and that the commitment this Nation has made to preserve freedom around the world will be honored.

Some people understand Americans better than others. There have been a number of showdowns with the Communists who control the Soviet Union. As a result of the firmness which we have evidenced and which their embassies and agents reported back to those in charge in the Soviet Union, I believe they understand the courage, the determination, and conviction of the American people, as well as our commitment to our freedom.

I believe we have persuaded them by our firm position in Berlin, and by the firm position this Nation took in Turkey, Greece, and Cuba, that this Nation will fight. It will fight any sort of war that may be necessary to preserve freedom in this world.

As much as we love peace, we love freedom and liberty even more. Therefore, we have reason to hope and believe that it will not be necessary to engage in a general war with the only power on earth really capable of waging general war against the United States. We do not wish to engage in such a war, and we believe that they do not. As long as they know that America will stand up with courage, under any circumstances, to protect its vital interests and its liberties, we have every reason to believe that such a war can be avoided.

Sometimes the United States gains the impression that the Chinese Communists still remain to be convinced. We do not wish to use any more force than necessary to convince that huge nation that we seek no war with anyone, but that we will defend the areas we are committed to defend and will defend them with whatever force may be necessary.

I believe that the Chinese Communists are coming to the conviction that that is, indeed, the position of the United States. They are coming to understand us a little better as a result of the strong position which the President has taken in regard to South Vietnam.

Sometimes, unfortunately, the press makes it appear—and perhaps some Senators and Representatives also make it appear—that America does not have the determination to stand fast, and that if the pressure is kept up against us, we might relent in our determination to defend freedom.

In my judgment, anyone who believes that is greatly mistaken. A minority which might differ with the President's views can sometimes be made to look much larger and more influential than it is, but Congress has voted on this issue time and again, and by huge majorities has voted the funds to continue the operation of our armed services to carry on the defense of freedom and prevent enslavement by aggressors from any source whatsoever.

Consequently, I applaud the President's statement this morning. I was pleased to notice that he received overwhelming standing applause from the more than 100 Senators and Representatives who listened to the explanation of his position.

There is no doubt in my mind that the appropriation recommended by the President will receive overwhelming support, that while some Senators may differ in small degree, all Senators share the same desire as to what the United States ultimately wishes; namely, peace. I believe that the great majority of Senators are completely satisfied that even though some may have minor differences as to the precise measure that should be used to defend freedom, few, if any, would have the United States renege on its commitments. Few, if any, Members of the Senate and House of Representatives would have America stand idly by at the prospect of a friendly nation being overwhelmed and driven into some form of Communist slavery, and do nothing to help that friendly nation defend its liberties.

Mr. DODD. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I am glad to yield to the Senator from Connecticut.

Mr. DODD. Let me compliment my friend the assistant majority leader for his great foresight and understanding of the situation which confronts us in Vietnam. I am happy to know that he has uttered words of support for the President and the President's request for $700 million additional for the Armed Forces of our Nation.

As the Senate knows, I have just returned from Vietnam. I have talked with the Senator from Louisiana and the Senator from Mississippi [Mr. STENNIS] on this subject. It was an uplifting experience to witness the reaction of Members of Congress to the President's explanation of his position, one of the most heartening and encouraging events I have ever witnessed.

Mr. LONG of Louisiana. The President made a statement this morning which has been made by many others. I do not claim that the President is the first one to have said it, but I know he fully believes that whenever this Nation has stood firm, particularly when we have armed ourselves adequate to the task and let it be known that we would do whatever was necessary to defend freedom, we have prevailed. We have had difficulty when we left our antagonists in doubt as to our intentions. Our adversaries are beginning to have some understanding that American thought in this field has crystallized to the extent that Americans know the President has a great burden upon his shoulders, and the country will support him.

Mr. DODD. I quite agree with the able and distinguished Senator from Louisiana. He and the Senator from Mississippi [Mr. STENNIS] also know that I have recently completed an extensive tour of the Far East, which has given me the opportunity to obtain a first-hand look at the war in Vietnam, what I call the auxiliary war in Laos, and the Indonesian confrontation with Malaysia.

At a later date, I will report to the Senate in more detail on that trip.

In anticipation of the more complete statement which I intend to present, I want to say at this juncture that the war in Vietnam is now going much better for our side.

There are many evidences of this.

The Vietnamese Armed Forces have in recent months inflicted very heavy losses on the Vietcong. The Government forces are taking more prisoners, capturing more weapons, receiving more defectors, unearthing more Communist caches of arms and ammunition and rice.

There are certain parts of the country where the situation is still precarious. But there are important regions which have witnessed dramatic improvement.

I spent the better part of a week in Vietnam and in Laos, moving from point to point by helicopter and plane. I had lengthy discussions with many of the people in that area, with our great Ambassador, Maxwell Taylor—who, I believe is one of the truly great Americans of our time—and with his brilliant assistant, Alexis Johnson, and members of the Embassy staff; with General Westmoreland and his senior officers. As the Senator from Mississippi knows, he is one of our really outstanding great soldiers, a man of great character and ability. I also had a lengthy discussion with Prime Minister Quat and his Cabinet.

I was impressed and, indeed, deeply moved, by the dedication of our Embassy personnel, our AID officials, and the American officers and GI's serving in Vietnam.

There are no faint hearts among the Americans in Vietnam, no voices crying for withdrawal because the war is too difficult or the burden too great.

On the contrary, everyone I met in Vietnam, from Ambassador Taylor and

General Westmoreland down to the rank of private, was convinced that the war could be won and determined that it must be won.

I met many soldiers from Connecticut at the Danang airbase. I talked with them alone. Their officers were not present. Our soldiers know why they are in Vietnam. They wish to stay there. This made such a deep impression upon me that I shall never forget it.

Volunteers man the helicopters—helicopters with open doors, machineguns at hand, leaning out and guarding against the Communist Vietcong. They are all volunteer American soldiers, every single one of them. Not one of them ever said that he wished to go home. I heard that some had asked to have their tour of duty extended so that they could stay on the job.

I also wish to tell the Senator from Louisiana and the Senator from Mississippi and all my colleagues in the Senate that wherever I went in Asia I met with the most enthusiastic approval of President Johnson's twin commitment to freedom and peace in southeast Asia. Indeed, I am convinced that American prestige among the countries of the Far East has never been higher than it is today. I talked with heads of state in every country. I talked with our people there. I talked with many other people. I tried to see and hear as much as I could.

I asked those people, "What do you think? Do you think what we are doing is on the right track?" Without exception the answer was, "Yes." It was unanimously in the affirmative.

They are all outstanding people, and they are doing an outstanding job for the free world.

I earnestly hope that Congress will move expeditiously to appropriate the supplementary funds requested by the President.

Mr. President, I would like to say a few words, too, about the situation in the Dominican Republic because I am convinced that it represents a Communist maneuver to divert some of our attention and some of our forces from Vietnam.

I believe that the overwhelming majority of the American people heartily applaud President Johnson's prompt and courageous action in dealing with the Dominican crisis.

So long as there appeared to be a possibility that the revolution was simply directed against the military junta, President Johnson adhered to a hands-off policy. But when it became clear beyond the possibility of doubt that hard-core Communist elements were in effective control of both the political and military aspects of the revolution, the President was confronted with an invidious choice—a choice which no President of the United States could have resolved in another manner.

The free nations of the Americas cannot afford a second Cuba in the Caribbean Sea. A Castro regime in the Dominican Republic would constitute a grave long-term threat to the security of all our nations, and an immediate threat to the political stability of the Latin nations of the hemisphere.

The great majority of those who participated in the Dominican revolution are certainly not Communists. But the hard experience of Cuba teaches us that a handful of Communists occupying the command positions can impose their will in defiance of a disorganized, undisciplined, democratic majority.

I wish to present for the consideration of my colleagues a few essential facts which I received from an authoritative source concerning the Communist role in the Dominican crisis.

Among the rebel forces, and playing an important role in organizing the rebels as well as carrying on much of the paramilitary action are 58 identified, prominent Communist and Castroist leaders.

They include 18 persons known or reliably reported to have been trained in subversive and paramilitary tactics by the Cuban Intelligence Service or other similar Cuban organizations; and 40 who have been reliably and clearly identified over the past few years as Communist and Castroist subversives.

Playing a key role in the tactical direction of the rebel forces is Manuel Gonzalez Gonzalez, an experienced Spanish Communist Party activist who has been working with the Dominican Communist Party for at least the past 2 years.

There are three Communist political organizations involved. They are the Partido Socialista Popular Dominicano—PSPD, Dominican Popular Socialist Party—which follows Moscow's direction; the Movimiento Popular Dominicano—MPD, Dominican Popular Movement—a small but aggressive Marxist-Leninist revolutionary party which follows the Chinese Communist ideological line; and the Agrupacion Politica Catorce de Junion—APCJ, 14th of June political group—the largest of the three which is known to have connections with the Soviet, Cuban, and Communist Chinese regimes.

Following the coup against former President Bosch in 1963, the APCJ and the MPD launched an open guerrilla warfare movement in the hinterland of the Dominican Republic.

Some Dominicans known to have received training in Cuba took part in that abortive effort.

The bulk of the captured rebels were deported in May 1964, and most of them became political exiles in France. From there, many have since traveled in the Soviet bloc countries, including Cuba, and Communist China, returning to the Dominican Republic recently.

Since they were generally leaders of ability and standing, and moreover had the benefit of recent training and orientation, they have been able to reorganize their parties in preparation for an opportunity such as the present crisis presents.

At the outset of the coup d'etat attempt, within 1 or 2 hours of the first rebel moves, members of the Castroist June 14 movement were already busy in the streets of Santo Domingo calling on the populace to come out and demonstrate in favor of the call for restoration of constitutional government by ex-President Bosch.

Communist and Castroist leaders shortly thereafter got quantities of arms and ammunition from the magazines of the "27 February" camp outside Santo Domingo, where rebelling Army officers had seized control as the opening act of the coup.

A sizable quantity of arms and ammunition fell into the hands of leaders of the PSPD—orthodox Communists—and the members of this party were quickly formed into armed paramilitary teams which fanned out in the downtown and "barrio"—slum—areas, taking control of secondary targets and organizing the inhabitants.

Such PSPD leaders as Buenaventura Johnson and Fidelio Despradel were particularly active in organizing these teams.

At the same time a party military headquarters was established and arms collected from loyalist police and military were stored there. Other strongpoints were organized.

Also leading the organization of extreme leftist-paramilitary units were Jaime Duran, who received paramilitary training in Cuba in 1962, and Juan Ducoudray, who has been a liaison link between Cuba and the Dominican Republic for the supply of weapons.

All of these actions are believed to have been directed under the generalship of Manuel Gonzalez Gonzalez.

With their relatively tight discipline and effective organization, the extreme leftist groups, particularly the PSPD, but also, prominently, the MPD and the June 14 movement, were soon providing a significant portion of the rebel forces and were decisively influencing the political leadership of the rebellion which, in the beginning, had been in the hands of the Bosch party leaders.

Extreme leftists took control of Radio Santo Domingo and operated in typical Castro style, parading captured loyalists before television cameras and haranguing viewers with slogans and denunciations of "the bourgeois reactionaries, imperialists," and so forth.

By April 27 the provisional government formed by Rafael Molina Urena contained members and officials who were either established Communist or Castroist personages or had histories of association with the extreme left. Among these were Luis H. Lajara Gonzalez, a Trujilloist who subsequently switched to the Castroist camp, and Alfredo Gonde Pausa, a well-known sympathizer with the PSPD, whose two sons are PSPD members.

This was the complexion of the rebellion when the original PRD leaders, who had organized the revolt to restore Bosch, realizing that their movement had been captured by the Castroist and Communist left, took asylum and by this action renounced their by now largely nominal leadership.

There is little room for doubt that the PRD civilian leaders of the revolt, with the exception of Bosch—who is not in the scene and lacks firsthand knowledge—have all at least privately recognized the

capture of their revolt by the extreme left. No civilian PRD leaders of any significance remain with the rebels. Most if not all have taken sanctuary in various embassies and private houses in Santo Domingo.

Rafael Molina Urena is in asylum in the Colombian Embassy.

Jose Francisco Pena Gomez is in hiding in the home of a friend.

Martinez Francisco, PRD secretary general, publicly exhorted the rebels to lay down their arms.

After he had withdrawn from the revolt and taken refuge, Pena Gomez, who had been one of the chief architects of the revolt, informed an American Embassy officer that he considered his movement to have been defeated. He said that the Communists who joined the rebel force infiltrated into positions of importance and that it was very difficult to stop them. In his withdrawal, Pena recognized that the only other alternative would have been to support a barefaced Castroist grab for power.

This recognition was summed up implicity by the PRD secretary general, Martinez Francisco, in his radio address to the nation from San Isidro on April 28:

> I beg all to lay down their arms, turning them in to the nearest military post, because this is no longer a fight between political parties.

It is only against this background that President Johnson decided that he had no alternative but to intervene.

It is my earnest hope that the Organization of American States will heed the President's request and will at an early date dispatch an inter-American force to the Dominican Republic for the purpose of restoring order in that unhappy country and of creating the conditions essential for stable and democratic government.

Meanwhile, I hope the Senate will move rapidly to demonstrate that in the cause of freedom we are prepared to pay any price.

I have said, because I believe it to be true, that the outbreak in the Dominican Republic is directly tied to our struggle in southeast Asia to defend the freedom and independence of the people of Vietnam.

I predict that we can expect more of this in one place after another and that we must be prepared for it, and that we must do everything in our power to strengthen the President's hand.

If we do not now stand strong, we shall stand weak at a later and more terrible hour.

Some friends have said to me, "Laos and Vietnam do not seem to be the right place."

In reply I have said, "They will have to do. There is no better place, and it is best that we make our stand now."

As the Senator from Louisiana has so well pointed out, every time we have stood firm, we have come out all right. And I am confident that we shall come out all right this time if we stand firm—in Vietnam, in Laos, in the Dominican Republic, all around the world, with our free friends and allies.

The President is not only committed to standing firm, as he has amply demonstrated, but he is committed just as strongly to this quest for peace.

I recall that I was in Korea and, later in the same day, in Taiwan, when the President made his speech in Baltimore about unconditional discussions.

The headlines had to do with that part of his speech in which he spoke of unconditional discussions. They ignored the President's total commitment to the freedom of Vietnam and southeast Asia. I said to those who expressed misgivings, "Read the whole speech." Of course, we are for unconditional discussions because we are ready at any time to sit down and talk with those who are in a position to stop this fighting and to end this war with justice for all.

That is our hope and our only purpose; and it should never be understood as a weakness.

I could not be more pleased that he is. No man wants war. No man wants to see people killed. But no man wants to see the whole world committed to Communist slavery. That, I believe, is the issue.

So I join with the Senator from Louisiana in his support of the President. I shall do all I can to help bring about the quick enactment of the proposed legislation which he has requested.

Mr. LONG of Louisiana. I thank the Senator.

Mr. President, the Senator from Connecticut has made a fine contribution to this Nation's foreign policy. It is an honor to serve with him on the Foreign Relations Committee. His recommendations down through the years have been wise. He has advocated that we stand firm in the face of aggression. His philosophy generally has meant that when those who would destroy and deny freedom strike us, we should strike back harder. If they should strike again, we should strike back even harder. That is the policy that our Nation is pursuing. We do not wish to use any more force than is necessary, but we shall use whatever force is necessary to defend freedom in this world. Our enemies should be well aware that when they decide to resort to additional methods to destroy freedom and strike at additional nations, we expect to use other measures available to us. I hope that we can have more help and support from friendly nations which realize this problem.

At the present time our Nation is doing its job and is doing it well. We shall succeed because we have a leader who has the vision, the courage, and the wisdom to realize what our problem is, and because the people have the good judgment to follow that leader.

Mr DODD. I should like to add one thing, if the Senator will yield further——

Mr. LONG of Louisiana. I yield.

Mr. DODD. I think it would be of great interest to the Senator from Louisiana and to the Senator from Mississippi.

I have heard in the Senate Chamber, I have read in our newspapers, I have heard on the radio, and I have heard people on television say, "Those people in Vietnam do not have any interest in freedom. They are not willing to fight for themselves."

I was astonished, amazed, and proud to learn that 80 percent of the armed forces of South Vietnam are volunteers. That is something to think about in any country. They have suffered terrible losses but they inflicted much greater losses on the enemy.

I was amazed, also, to hear from our Air Force people. I asked them, "Do they have any pilots?"

They said, "Do they have any pilots? They have about 800 crack pilots and they will soon have more than 1,000. And they are wonderful pilots."

More importantly, perhaps, they told me that their record on the maintenance and serviceability of aircraft is at least as good as ours. That is something to think about—these people of whom it is said that they do not wish to fight for their freedom.

I went into some little hamlets and villages where I met the mayors and the village chiefs, and I found that in most instances the third or fourth or even the sixth or seventh in the line of succession. Their predecessors have had their throats cut by the Communists in Vietcong attacks, most of the time at night.

So I said to one of them, "You are a pretty brave fellow. Where I come from it would be hard to find a community in which you could get a man to run for mayor when five of his predecessors had had their throats cut." And I think it is true.

But they do not have trouble finding replacements in Vietnam.

This is the kind of people with whom we are fighting, and I think that the American people ought to know it.

Mr. LONG of Louisiana. It is also important to realize that for every casualty we have suffered, for every American who has lost his life in Vietnam, many Vietnamese have sacrificed their lives in attempting to defend freedom. I believe their loss of lives have run about 10,000 killed. This would indicate that 20 lives of Vietnamese have been sacrificed on the altar of freedom for every one that our Nation has given in defending freedom against Communist enslavement in that area.

Mr. DODD. That does not take into account the thousands who have been kidnaped. The kidnaping that is going on in this war is a terrible thing. The Communists move in at night. They grab the children and the wives of these brave people and take them off, God knows where, probably never to be heard from again.

Most men would rather die than suffer that disaster. But those men continue the fight.

Our people have no idea of what is going on in this distant place from us or of the courage of those who are continuing to fight on with our support.

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

Mr. LONG of Louisiana. I yield to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator. I commend the Senator from Connecticut for his decision to go to Vietnam and the other areas he visited. I feel that he

has rendered his country, the Congress, and, more particularly, the Senate, a great service. I am one of those who look forward to his formal speech, in which he will give us a report and a comprehensive review of his impressions as well as his recommendations. He is peculiarly fitted to go, and I think he has served his country well. I hope that the Senator can deliver his speech some time soon, with some prior advance notice.

Mr. DODD. I assure the Senator I shall do so.

I am deeply grateful for the Senator's compliment. I do not deserve it, but I am vain enough to enjoy it.

Mr. STENNIS. It is quite a chore which the Senator performed, from a physical standpoint. His services are valuable.

If the Senator from Louisiana will yield to me further, I should like to commend him for his remarks with reference to Vietnam and the bill which we shall shortly consider with reference to a proposed special authorization and appropriation, and the firmness of the stand of the President, not only with reference to Vietnam, but also in reference to the Dominican Republic. Such firm stands put us on the way to a better position, not only for us, but also the world. I look forward to his presentation in the Senate when those questions arise. The Senator's remarks were very good indeed. I do not believe that we have anything to fear so long as we follow a policy of decision, firmness, and action, although, of course, we certainly do not wish any more war or bloodshed than is absolutely necessary.

But we are certainly living in troublous times, and we must meet the situations as they arise, like them or not. I believe that this time we will.

I thank the Senator from Louisiana for yielding to me.

Mr. LONG of Louisiana. Mr. President, I wish to join in the well-deserved compliment that the Senator from Mississippi has paid to the Senator from Connecticut. I agree with him 100 percent that the Senator from Connecticut has rendered the Nation a great service.

Likewise, the Senator from Mississippi has rendered the country valiant service during the illness of our great and revered chairman of the Committee on Armed Services, the distinguished senior Senator from Georgia [Mr. RUSSELL]. During the recovery of Senator RICHARD RUSSELL from his illness, the Senator from Mississippi [Mr. STENNIS] has been serving as the acting chairman of the Committee on Armed Services and has done so in an outstanding manner. I have had the opportunity to hear him manage bills that have come from the Committee on Armed Services. He is carrying on in a style of which the Nation can be proud. I know that our distinguished chairman [Mr. RUSSELL] will join me in expressing gratitude to the Senator from Mississippi for the excellent work he has done as acting chairman of the Committee on Armed Services during this period.

Mr. STENNIS. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. STENNIS. I thank the Senator for his kind remarks. We are delighted to know that Senator RUSSELL's health is improving, and we look forward to his early return. The Senator from Georgia started me on my service on the Committee on Armed Services.

The Senator from Louisiana was himself a valued member of that committee.

Mr. LONG of Louisiana. It was a great honor for me to serve on the Committee on Armed Services. I was a desk mate of the Senator from Mississippi [Mr. STENNIS], whose sound judgment transcended party lines with respect to our military and foreign relations problems throughout the years. I appreciate what he has said.

I believe it should also be noted for the RECORD that the President of the United States, before sending American troops to the Dominican Republic, day after day called upon the contending sides for a ceasefire. He did not want to send American troops to the Dominican Republic. But neither did he want to see innocent men, women, and children—civilians—who were not parties to the contending sides of that struggle, needlessly sacrificed.

Also, the President did not want to see a Communist takeover of that island. He sought to avoid that by sending American troops and by repeatedly calling for a ceasefire prior to the sending of those troops. It was only when a ceasefire could not be arranged that the President decided it was necessary to use American troops.

As one Member of this body—and I think I speak generally on behalf of the Senate—I believe it would have been preferable that forces of the Organization of American States should have been available to accomplish the task which this Nation has found it necessary to undertake. We hope, even at this point, that the Organization of American States, through the governments acting individually, will be able to participate in restoring democratic government to the Dominican people.

PRESIDENT JOHNSON AND VIETNAM

Mr. DODD. Mr. President, I ask unanimous consent to have printed in the RECORD two significant items which appeared in the press last Wednesday, April 28. The first is an article captioned "Field Commander Johnson," written by the veteran columnist, Joseph Alsop. The second is an editorial bearing the caption "Bridges Versus People." It was published on the same date in the Washington Daily News.

Mr. Alsop, in his article, describes the intense personal interest which the President, as commander in chief, is devoting to the conduct of the Vietnamese war. He points out that all targets are personally approved by the President, in consultation with the Secretary of State and the Secretary of Defense. He says that when planes have gone on a mission, the President will frequently stay awake or will have himself called, so that he can hear the results of the mission as soon as it is completed.

When pilots are missing—

Mr. Alsop wrote—

he has been known to stay awake through the small hours, to sweat out the final recovery of the missing men by the air-sea rescue service.

From my recent travels around Asia, I concur wholeheartedly in Mr. Alsop's estimate that the President "looms much larger in the world today than on the day of his triumphant reelection."

Everywhere I traveled in the Far East, I was met with the conviction that the free world has found a leader with a mettle to match that of the men of Moscow and Peiping.

The Washington Daily News editorial referred to President Johnson's expressed wonderment over people who are more disturbed by our bombing of bridges in North Vietnam than they are over the Vietcong murders of women and children. I share fully the President's wonderment; and this is a subject to which I intend to address myself at an early date on the floor of the Senate.

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

[From the Washington (D.C.) Post, Apr. 28, 1965]

FIELD COMMANDER JOHNSON

(By Joseph Alsop)

For members of the White House staff, a fairly common morning greeting nowadays is a hint that they are slug-a-beds compared to their master, who is perfectly likely to announce: "I was up at 5, waiting to make sure that all my boys got back from that mission."

It is hard to believe, but it is a fact that the President follows the bombing missions attacking targets in North Vietnam almost in the manner of a field commander.

He is customarily notified when the planes have gone out. He often stays up, or has himself called, or is awakened by his own internal alarm clock, to hear the mission's results. And when pilots are missing, he has been known to stay awake through the small hours to sweat out the final recovery of the missing men by the air-sea rescue service.

All this is decidedly sympathetic, although someone ought to persuade the President that it is quite unnecessary. He has been looking a bit tired recently, and no wonder. For his new role as a field commander of operations halfway around the world must clearly cut substantially into his always minimal daily allowance of rest.

But persuading Lyndon B. Johnson to mend his ways, for his own good or for any other reason, has always been an uphill task. The significant point to note is that the President, in some sense, really is the field commander of these remote, delicate, and crucial military operations.

All targets are, in the first place, personally approved by him, in committee with the Secretaries of State and Defense. The operational plans for each attack, the choice between approved targets dictated by weather and other considerations, the estimates of forces needed for each mission—all these matters, very naturally and properly, are left to the air officers and naval officers on the spot, who have direct operational responsibility.

But even the decisions about these matters, when reached, are also reported to the President promptly and in detail. He and Secretary of Defense McNamara keep a minutely close watch on the whole process, particularly including contingent orders to the pilots participating in the missions, about what to do if, for example, they encounter

Chinese fighter aircraft—as they have done once already over the Gulf of Tonkin.

It is a striking proof of the increased political maturity of the American armed services, that there has been no grumbling or sneering about this "black seat driving," as it would surely have been called in the old days. The military leaders have seen that these operations are as much political as military. Hence there has been nothing even remotely resembling the tantrums of the higher naval command in the second Cuban crisis.

The military leaders are not the only persons who have changed markedly, however. The phenomenon is hard to define, but these last months have clearly somewhat changed the President himself.

Perhaps the best clue is the familiar experience of the man who has never been in combat; who goes into combat with the self-doubts that any normal man feels in these circumstances; and who then finds he can do what needs doing in a quite satisfactory manner. This is a truly liberating experience, as all know who have had it.

Like the man who has never been in combat, President Johnson before Pleiku had never taken quite the sort of decision that he took when the attacks on North Vietnam were ordered at last. He now tells all and sundry that this decision involved no change of policy, that all had been foreseen, and so on and on. Maybe he believes this himself. But, in fact, a very major Rubicon was crossed.

Crossing it gave the President none of the exhilaration that another sort of national leader might have felt. Being field commander now does not excite him as it would have excited Franklin Delano Roosevelt and John F. Kennedy. As someone or other remarked, "Johnson is not the sort of man who will collect ship models after he is out of office."

But one suspects, nonetheless, that he has somehow been liberated, and even enlarged, by making a cruelly hard decision that was foreign to his previous experience, and by taking a task in hand that is not really to his taste. Certainly he looms much larger in the world today than on the day of his triumphant reelection.

In Moscow and Peiping, in Paris, and in other quarters where it is desirable to have the President of the United States regarded as pretty formidable and not to be lightly tampered with, the upward revision of the going estimates of Lyndon Johnson has been almost an audible process. And rightly so, too; for he has removed that last doubt that with any luck at all, his time in office may prove to be one of the major Presidencies.

[From the Washington (D.C.) Daily News, Apr. 28, 1965]

BRIDGES VERSUS PEOPLE

President Johnson at his Tuesday press conference expressed wonderment that people who are disturbed by our bombing of bridges in North Vietnam never seem to be upset by such events as the Communist bombing of our Embassy in Saigon nor by Vietcong murders of women and children.

That puzzles us, too.

There can be many arguments against war as an institution. But to condemn the use of force on one side, while condoning it on the other, must be either ridiculous or coldly cynical.

Nevertheless, a good many Americans—not a majority, to be sure—seem to have been caught up in this frenzy.

The fact is that the Communists are counting on just such a reaction in this country to help them achieve their goal. They believe our natural disinclination toward the use of force eventually will cause us to give in rather than fight to the finish in Vietnam.

As the President made clear, however, the Vietnam war is not going to conclude that way. We did not make the war, but we are there to stay. We are, in Mr. Johnson's words, not about to "tuck our tails and run home."

Meanwhile, it will be good for the American people to remember that, as the President indicated, it is more useful in war to blow up a cold steel bridge than to murder a child.

ADJOURNMENT

Mr. LONG of Louisiana. Mr. President, I move, in accordance with the previous order, that the Senate adjourn until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 14 minutes p.m.) the Senate adjourned, in accordance with the previous order, until tomorrow, Wednesday, May 5, 1965, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

TUESDAY, MAY 4, 1965

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., used this verse of Scripture:

Luke 12: 32: *Fear not, little flock; for it is your Father's good pleasure to give you the kingdom.*

Eternal God, when we deal honestly and sincerely with ourselves, we see how much of faith and fortitude, of patience and perseverance we daily need if we would follow Thy principles and spirit in our individual and social life.

May we be numbered among those whose inner life is redeemed from selfishness to a life of sympathy and service for the common good of mankind and the higher life of humanity.

Inspire us to give ourselves, with wholehearted dedication to the dawning of that better and brighter day when we shall cultivate a nobler skill in discovering and developing those capacities not only for a more splendid human personality but a finer social order.

Help us to give our plans and programs for the Great Society a more personal touch and may we be partners with all who would give vitality and validity to that lofty mission which is fruitful not only in an individual but in a social sense.

Hear us 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 a bill of the House of the following title:

H.R. 5702. An act to extend for 1 year the date on which the National Commission on Food Marketing shall make a final report to the President and to the Congress and to provide necessary authorization of appropriations for such Commission.

The message also announced that the Presiding Officer of the Senate, pursuant to Public Law 115, 78th Congress, entitled "An act to provide for the disposal of certain records of the U.S. Government," appointed Mr. MONRONEY and Mr. CARLSON members of the joint select committee on the part of the Senate for the disposition of executive papers referred to in the report of the Archivist of the United States numbered 65–11.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

CHILDREN OF MRS. ELIZABETH A. DOMBROWSKI

The Clerk called the bill (H.R. 1291) for the relief of the children of Mrs. Elizabeth A. Dombrowski.

There being no objection, the Clerk read the bill, as follows:

H.R. 1291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to each child of Mrs. Elizabeth A. Dombrowski, of Parma, Ohio, widow of Victor E. Dombrowski, of Parma, Ohio, the amount which the Administrator of Veterans' Affairs certifies to him would have been payable to each such child under section 542 of title 38 of the United States Code for the period from July 1, 1960, to the date which each such child actually began receiving a pension under such section: *Provided,* That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CWO ELDEN R. COMER

The Clerk called the bill (H.R. 1374) for the relief of CWO Elden R. Comer.

There being no objection, the Clerk read the bill, as follows:

H.R. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Elden R. Comer, Route 3, Box 22, Orland, California, the sum of $1,680.62 in full settlement of the claim of the said Elden R. Comer against the United States. A claim was timely executed by the claimant under date of March 28, 1955, as prepared by the Navy Finance Center, Cleveland, Ohio, but there is no record of any Government action thereon. A subsequent claim was filed October 18, 1962, and payment was made for all amounts not barred by the statute of limitations. The above referred principal